[IE] Advertising Standards Authority issues reminder to advertisers not to make unsubstantiated or misleading claims about COVID-19

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On 7 April 2020, the Advertising Standards Authority for Ireland (ASAI), the independent self-regulatory body responsible for promoting the standards of marketing communications in Ireland, issued a reminder to advertisers that "any claims being made for products and services referring to COVID-19 should be adequately substantiated."

The ASAI issued the reminder following complaints it had received regarding a number of advertisements for products and services relating to COVID-19 on the grounds that they were misleading. The ASAI stated that it was "absolutely necessary to remind all advertisers of the need to advertise responsibly and to avoid claims that undermine public health advice or exploit people's anxieties."

Advertisers who are members of the ASAI are required to abide by the ASAI's Code of Standards for Advertising and Marketing Communications in Ireland, which applies to all commercial marketing communications, and not to publish an advertisement or conduct a promotion which contravenes Code rules. The Code covers commercial marketing communications and sales promotions in all media in Ireland, including digital (online banners, websites and social platforms), print, outdoor, radio, TV, leaflets/brochures, and direct marketing.

The ASAI Code of Standards for Advertising and Marketing Communications 2016, section 4.1, provides that "a marketing communication should not mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise." Accordingly, the advertiser must be in a position to substantiate all claims, expressed or implied, that the ad conveys to reasonable consumers.

In the context of substantiation, the importance of protecting the consumer from false or misleading advertising is specifically affirmed in section 4.9 of the Code, which states that "a marketing communication should not contain claims, whether direct or indirect, expressed or implied, which a consumer would be likely to regard as being objectively true unless the objective truth of the claims can be substantiated."

In addition, substantiation requirements specific to health claims are contained in section 11.1, which asserts that "claims about health and beauty products and

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treatments should be backed by substantiation. Where relevant, this should include the results of robust and reputable trials on human subjects, of sufficient rigour, design and execution as to warrant general acceptance of the results."

Orla Twomey, Chief Executive of the Advertising Standards Authority for Ireland, commenting on the reminder notice, stated that "in these unprecedented times, no advert should be irresponsible or exploit consumer fears regarding the current crisis. Advertisers are therefore advised to think twice before making any claims about how to prevent or cure COVID-19 unless the claims can be supported by robust evidence."

ASAI, The Advertising Standards Authority for Ireland issues reminder to advertisers not to make unsubstantiated or misleading claims about COVID-19

https://www.asai.ie/press-releases/the-advertising-standards-authority-for-ireland-issues-reminder-to-advertisers-not-to-make-unsubstantiated-or-misleading-claims-about-covid-19/

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