

FTC Targets “Up To” Claims

By: Peter S. Bauman, Esq.

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Advertising claims that are deceptive or misleading often draw the ire of the Federal Trade Commission. That’s why avoiding the use of potentially misleading or deceptive advertising is advisable.

Of course, what seems deceptive or misleading to some people, might not to others. Human perception and understanding of specific ads may differ based on many factors, including level of interest, education, common sense, etc.

According to the FTC’s [Deception Policy Statement](#), an ad is deceptive if it contains a statement, or omits information, that (a) is likely to mislead consumers acting reasonably under the circumstances; and (b) is “material”, that is, important to a consumer’s decision to buy or use the product.

Recently, the FTC addressed “up to claims” made by window manufacturers, as in: “PROVEN TO SAVE UP TO 47% ON YOUR HEATING AND COOLING BILLS”. This and other variations of ad copy were presented to consumers as part of an [FTC research study](#). One of the ads included a disclaimer: “The average Bristol Windows owner saves about 25% on heating and cooling bills.”

According to a recent [article](#), the study determined that (a) approximately one-third to one-half of consumers believed the “up to” ad without a disclaimer stated or implied savings of 47%, (b) almost half of consumers believed the “up to” ad without a disclaimer indicated users could expect to save about 47% and (c) more than 40% of consumers who viewed the ad with the disclosure assumed that about half of all window users could expect 47% savings or more.

It remains unclear whether the results of the study would support a court finding that these or other “up to claims” are deceptive or misleading.

But, perhaps more important, the debate surrounding “up to claims” and other advertising practices that may be misleading or deceptive speaks to the risk inherent in striving for quick sales vs. developing strong relationships that lead to lifelong customers. Ultimately, customers need to trust the services or products you provide.

As such, the wisest course of action may be to forego the marketing gimmick, and the risk it brings of attracting unwanted attention from the FTC and state consumer protection agencies, and focus instead on improving your core customer base in a way that will keep them coming back. <http://bit.ly/OQ72jt>

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