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'GREENWASHING' ENVIRONMENTAL CLAIMS GIVE RISE TO LEGAL LIABILITY

'Green' products and services are becoming popular in many industries as people become more concerned with environmental protection and climate change. Companies market products as environmentally friendly through the use of words like 'biodegradable', 'green' and 'eco-friendly'. Consumers tend to show a positive response to these claims. However, most consumers give little thought to what these terms actually mean.

This rise in popularity of 'green products' seems to bring with it false advertising claims also known as 'greenwashing'. Greenwashing most often occurs because producers and advertisers misunderstand what qualifies as 'environmentally safe'. False advertising can lead to regulatory liability and damage to the reputation of the company making the claim.

FALSE ADVERTISING CLAIMS

Claims that products are biodegradable must be supported with scientific evidence about decomposition rates. In one U.S. case, Kmart claimed its American Fare disposable plates were biodegradable. The U.S. Federal Trade Commission found Kmart's claims to be deceptive. The plates would not completely break down and decompose within a reasonable short time in normal disposal conditions. Kmart agreed to a consent order that barred Kmart from representing that a product is 'biodegradable' or has an environmental benefit without reliable scientific evidence. Kmart also agreed to reporting and monitoring requirements to ensure compliance.

In Canada, P.V.I. International Inc. claimed that its device increases a vehicle's fuel efficiency by 22% and reduces emissions. The company's ads also state that the product was U.S. government approved and that its environmental claims were confirmed. The Canadian Competition Bureau charged the company and its two officers with engaging in deceptive marketing practices and misleading consumers without adequate testing. As a result, the Canadian Competition Tribunal fined the company \$75,000 and the officers \$25,000 each, and ordered the owners to not make fuel-saving or emission-reduction claims about the product for 10 years.

In 2013, the City of Santa Monica, California, targeted six dry cleaners about claims that each offered environmentally friendly dry cleaning services. Santa Monica officials relied on federal, state and municipal laws to investigate the six dry cleaners' environmental claims. The U.S. Federal Trade Commission's 'Green Guides' set out standards that businesses should adopt when advertising 'green' or environmentally friendly practices, products and services. The six Santa Monica dry cleaners agreed to drop the use of 'non-toxic', 'environmentally safe' and other green terms. The dry cleaners could not support or substantiate their environmental claims.

RISKS FOR DRY CLEANERS

Solvent traditionally used in dry cleaning, called perchloroethylene (or perc), can be harmful to human health and the environment. Perc is subject to stringent regulations in Canada under the *Canadian Environmental Protection Act, 1999* and the *Tetrachloroethylene (Use in Dry Cleaning and Reporting Requirements) Regulations*.

Alternative cleaning processes and agents are becoming more prevalent in the dry cleaning industry. Dry cleaners are switching to alternative cleaning processes and agents such as wet cleaning, CO₂ cleaning, liquid silicone and hydrocarbon solvents. Dry cleaners must take care when using terms like 'green', 'environmentally safe' and 'environmentally friendly' to describe alternative cleaning processes and agents.

The environmental impacts or benefits of an alternative cleaning process or agent may not be legally defined or confirmed. Misuse or mischaracterization of 'green' terms or descriptors may subject dry cleaners to liability for false advertising or deceptive marketing claims.

GUIDELINES AND BEST PRACTICES

To avoid false advertising claims, business owners should be aware of relevant statutes and regulations that govern competition and advertising in their jurisdiction and industry.

The Competition Bureau of Canada administers and enforces three pieces of legislation that affect advertising and liability: the *Competition Act*, the *Consumer Packaging and Labelling Act* and the *Textile Labelling Act*.

The *Competition Act* is federal law. It governs most business conduct in Canada. Its purpose is to prevent anti-competitive practices using criminal and civil penalties. The *Competition Act* prohibits false or misleading representations. This includes representations that have not been adequately proven or tested. Business owners are also prohibited from using false tests or testimonials and making those false tests or

testimonials available to the public for advertising purposes. Dry cleaners using alternative dry cleaning processes or agents should be aware of these provisions when advertising their services or when naming their business.

The Competition Bureau of Canada will follow the civil regime in most cases unless there is clear and compelling evidence that false claims were intentional and that a criminal prosecution would be in the public interest. The Competition Bureau may impose monetary penalties depending on the type and severity of the offence. The Competition Bureau may also make orders or issue injunctions, and may require the accused to compensate injured consumers.

In 2008, the Canadian Standards Association, in partnership with the Competition Bureau of Canada, published *Environmental claims: A guide for industry and advertisers (Guide)*. The *Guide* provides assistance to industry and advertisers in complying with the law. The *Guide* focusses on self-declared environmental claims made by persons who will benefit.

The *Guide* also provides best practices for companies that use the internationally accepted ISO 14021 Standards for environmental labels and claims. The *Guide* aims to level the playing field by reducing the risk of misleading environmental claims, while providing the incentive to companies to improve environmental performance and to meet consumer demand for environmentally safe products.

The *Guide* sets out 18 requirements that apply to self-declared environmental claims consistent with the *Competition Act*. Dry cleaners should consider a number of the requirements when making environmental advertising claims. Claims must:

- not be misleading, and shall be substantiated and verified;
- be specific to the environmental aspect or environmental improvement in claims;

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NEW IPSO HARDMOUNT SERIES FOR OPL USE

IPSO introduces its ICN series of washer/extractors designed for on-premise laundries. The series is said to help operators reduce water usage and utility costs while optimizing efficiency. The series comes in sizes from 20 lbs. to 100 lbs., and with IntelliSpin technology available on 20-lb. to 80-lb. sizes. These models utilize up to 200 G-force extraction speed and can remove more water from clothes and linens. This reduces drying times and results in fewer bottlenecks at the dryer because cycle times between the washer and dryer are matched.

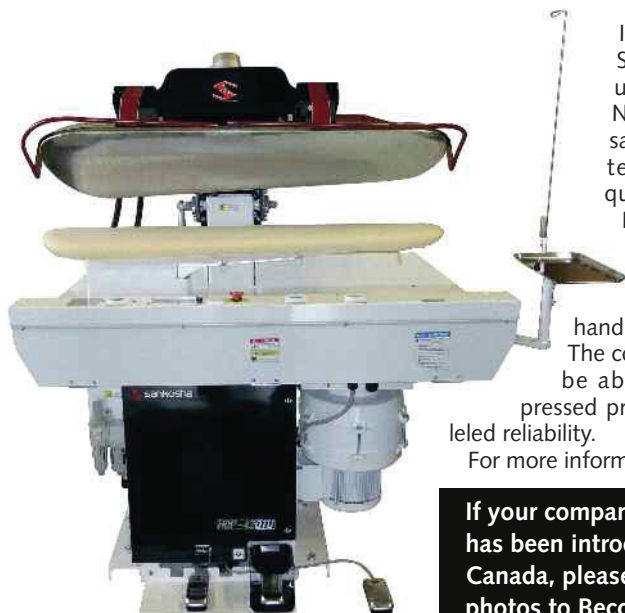
A standard feature is slow drain and leak detection, to help conserve water and reduce preventive maintenance. For more information, call 800-USA-IPSO or visit IPSO.com.



Ecolab introduces Performance™ UltraBoost

UltraBoost is described as an alkaline silicate-based water conditioner designed to remove the toughest soils facing today's industrial laundry operations. Free of nonylphenol ethoxylates (NPEs) and ethylenediaminetetraacetic acids (EDTAs), Performance UltraBoost is said to provide superior cleaning results while minimizing environmental impact. The company says the product's soil-suspending properties work in tandem with surfactants to maximize performance. Chelating agents enhance water quality during the wash process, allowing the detergent and alkali to remove soils more effectively and efficiently. For more information, contact laundry@ecolab.com.

Sankosha's new Hot-Head Dry Cleaning Utility and Legger Presses



In response to customer demand, Sankosha has developed a hot-head utility and a legger press for the North American market. They are said to incorporate superior pressing technology and provide finishing quality with incomparable reliability.

Features include precision milled and laser cut press heads along with built-in safety features such as head guards and two-hand operation.

The company's goal is for its customers to be able to produce the finest quality pressed product while experiencing unparalleled reliability.

For more information, visit www.sankosha-inc.com.

If your company has a new product that has been introduced and is available in Canada, please send your information and photos to Becca Anderson, Editor. becca@fabricarecanada.com

- be unlikely to result in misinterpretation;
- be presented in a manner which does not imply that the product is endorsed or certified by an independent third-party organization when it is not;
- not be made if the claim suggests an environmental improvement that does not exist, nor shall claims exaggerate the environmental benefits of a product to which the claim relates;
- be re-assessed and updated as necessary to reflect changes in technology, competitive products or other circumstances that could alter the accuracy of the claim.

In practice, labelling a product as 'environmentally friendly', 'green' or 'environmentally safe' gives the impression that the product is benign or beneficial to the environment. There must be greater detail about environmental benefits to ensure that claims are not misleading or deceptive. Further, business should avoid claims about sustainability (e.g., 'sustainable dry cleaning'). The concept of sustainability is extremely broad and complex; there are no universally acceptable ways to measure sustainability.

In addition to avoiding broad or unclear environmental claims, it is better to use explanatory statements to accompany environmental claims. Explanatory statements can help to ensure that consumers will not be misled by or misinterpret environmental terms. Explanatory statements may also help to qualify claims of environmentally friendly practices.

Finally, dry cleaners should update environmental claims and modify them as further testing is done or new information becomes available. The increasing popularity of alternative dry cleaning approaches will generate more information about environmental impacts. It is important to remain up-to-

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speed on changing information, current legislation and guidelines to ensure your business limits its legal exposure to allegations about false advertising.

Although the *Guide* is not law, the Competition Bureau uses the *Guide* as a reference for evaluating environmental claims. Breaches of practices in

the *Guide* can constitute indications of misleading advertising in contravention of competition and labelling statutes.

In addition to regulatory risks

associated with environmental claims and labelling, dry cleaners should also be mindful about risks to reputation. The benefit your business may derive from using alternative dry cleaning approaches may be lost if your advertising makes unsupportable environmental claims. ■

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- (2) 2007 - Continental - 30lb - Triple Load - Coin Washer
- (1) 2006 - Wascomat - 55lb - EX655C - Soft Mount - 1 Phase
- (1) 1996 - Milnor - 60lb - 30022F8J - Soft Mount
- (1) 1991 - Milnor - 60lb - 30020 M5J

Dryers:

- (2) 2003 - ADC - 120lb - ADG120ESD - Gas, FSS
- (1) 2002 - Huebsch - 35lb - HT035EMT - Electric
- (2) 1999 - Maytag - 75lb - MDG75PN - Gas

Water Heater:

- (1) 2007 - RHEEM - 72 Gallon - G72-250 - 250,000 BTU - Gas

Finishing Equipment:

- (1) 1995 - Unipress - Cabinet Air Bag Sleever - ABS
- (1) 1995 - Unipress - Collar & Cuff - 3TZ
- (1) 1994 - Unipress - Cabinet Air Bag Sleever - ABS
- (1) 1994 - Unipress - Collar & Cuff - STHS
- (1) 1993 - Unipress - Shirt Unit Single Buck - CSB
- (1) 1992 - Unipress - Laundry Press - C51
- (1) 1982 - Forenta - Apparel Press - M6VLE - 230/60/3P - Electric
- (1) 1965 - Hoffman / New Yorker - Drycleaning Utility Press - AA45
- (1) Hoffman / New Yorker - Drycleaning Utility Press - NYAA42U
- (1) Hoffman / New Yorker - Sleever - HALS-11-S
- (1) Forenta - Hot Head Laundry Press - M11VL051
- (1) Cissell - Drycleaning Press - AU-42-C
- (1) Cissell - Ironing Board - ALA-11
- (2) Reliable - i702 Steam Boiler



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