



**MasterCard Working™**  
FOR SMALL BUSINESS

Susan-Says®:  
**Keep Your Advertising Legal.**

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Advertising has changed dramatically over the past several decades, and many of the changes are because of regulations governing ads on the local and federal level. So business owners must use caution when making claims about their products or services. According to the FTC, there are three basic truths in advertising rules to remember. Ads must be truthful and not deceptive. Advertisers must be able to back up claims, and the ads must be fair.

A statement or an omission that would cause a reasonable consumer to be misled about a material issue is considered a deceptive advertising practice by the FTC. For example, if a car rental firm advertises it has the lowest prices at the airport, that's a claim and there has to be proof to back it up. If you try to rent a car based on the ad and discover that it's limited to one type of car class on a given day of the week, that's a misleading statement.

Furthermore, if you are going to use any kind of comparative advertising you must adhere to what is called the prior substantiation doctrine. What is the basis for your comparison? Did you take a survey? And if you did, that survey needs to have included the relevant universe of consumers within. So make sure you can back up any statement with proof before the advertisements appear in any media.

Regulators evaluate ads from the point of view of the "reasonable consumer," meaning the typical person looking at the ad. Everything about the ad including the words, the phrases and even the pictures are considered when determining what message is being conveyed. Ads that often raise red flags are claims about health or safety and claims that consumers have difficulty evaluating on their own.

Testimonials from experts or customers can be an effective form of advertising, but they also can create problems. For example, if you're talking about a remedy of some sort and you get the testimony or a statement from a doctor who is clearly in the minority in terms of whether or not some remedy is in fact going to do the job, that would clearly be a misleading testimonial.

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If you're using an endorsement make sure it is well documented. Advertisers shouldn't promise more than a product or service will deliver. Images should truly reflect your service or product; otherwise, you'll need to make disclosures. The goal is to help the consumer recognize what the true terms of the deal are going to be.

The bottom line is don't mislead consumers. For additional information to ensure your ad campaign complies with the law, go to [www.ftc.gov](http://www.ftc.gov). There you'll find updated information from the Federal Trade Commission, Food and Drug Administration, and other federal agencies. Local departments of consumer affairs and Better Business Bureaus are also a good place to start in checking local regulations. These sites can also be helpful if you think one of your competitors is running a deceptive ad.

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