



Online Advertising and the Competition Act



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Competition Bureau

- **Independent law enforcement agency**
- **Contributes to the prosperity of Canadians by protecting and promoting competitive markets and enabling informed consumer choice**
- **Discourages deceptive business practices and encourages the provision of accurate and truthful information in the marketplace**





Fair Business Practices Branch (FBPB)

- FBPB is responsible for the administration and enforcement of provisions of the *Competition Act* that deal with misleading representations and deceptive marketing practices, as well as the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act*, and the *Precious Metals Marking Act*.





Competition Act

- The *Competition Act* is a federal law governing business conduct in Canada
- It aims to promote competition in the marketplace by fighting anti-competitive practices
- It contains provisions prohibiting false or misleading representations and deceptive marketing practices in promoting the supply or use of a product
- Scope of application





Substantive Provisions

- Two adjunctive regimes: Choice of track
 - Criminal track for the most egregious matters
 - Civil track for all other matters
- Sections 52(1) and 74.01(1)(a) – False or Misleading Representations
 - 52(1) – Prohibits knowingly or recklessly making a representation to the public, in any form, that is false or misleading in a material respect
 - 74.01(1)(a) – Prohibits the making of a representation to the public, in any form, that is false or misleading in a material respect.
- Choice of track is made as quickly as possible after the facts have been determined





Substantive Provisions (cont'd)

- Penalties
 - Administrative Monetary Penalties (AMPs) under s. 74.1(1)(c)
 - Maximum term of imprisonment under criminal provisions
- All representations, in any form, that are false or misleading in a material respect are prohibited
- If a representation could influence a consumer to buy a product or service advertised, it is material.
- In determining whether a representation is false or misleading, the courts consider the “general impression” conveyed in the representation, as well as its literal meaning.





Online Representations

- Internet advertising is an important promotional tool
- Scams have now migrated to the Internet
- Stakeholders (business and the legal community) have sought clarification about how the Competition Act provisions apply to online advertising
- Virtually all examinations now involve a review of websites as part of a normal investigative practice
- Liability on person who has caused the representation to be made





Online Representations (cont'd)

- Enforcement visibility is important to build and maintain consumer confidence in electronic commerce
- The Internet poses unique challenges to law enforcement agencies
- Inter-jurisdictional communication and cooperation are now essential





Internet Advertising Guidelines

- The Objectives of the Internet Advertising Guidelines are to:
 - Set out the enforcement policy the Commissioner will follow when assessing representations made online
 - Discuss issues that are particular to the online medium
 - Assist businesses to structure their online representations to avoid conflicts with the false or misleading representations provisions of the *Competition Act*.





Internet Advertising Guidelines (cont'd)

- The guidelines offer practical advise on how to avoid common issues, such as:
 - Use of disclaimers and disclosure
 - Website structure
 - Information about the transaction
 - Representations about the product or service
 - Representations about the supplier





Internet Advertising Guidelines (cont'd)

•Disclaimers

- placement and proximity to the claims;
- visual design, use of illustration
- prominence
- items that distract attention from disclaimer
- repetition of disclaimer
- size of font
- accessibility and use of hyperlinks to lead to disclaimers
- use of hyperlinks
- structuring your web site
- using external links
- displaying disclosure prior to purchase





Internet Advertising Guidelines (cont'd)

- Information about the Transaction
 - Should provide sufficient information about the terms, conditions and costs associated with a transaction to enable consumers to make an informed decision about whether to enter into the transaction.
- Representations About the Product or Service
 - Must be designed so as to ensure that consumers are not misled about any aspect of the product or service being marketed.





Internet Advertising Guidelines (cont'd)

- Representations About the Advertiser
 - Can also raise issues under the Act if they are false or misleading.
- Jurisdictional Issues
- Concluding Considerations





Project FairWeb

- Because the Internet and Internet-based fraud evolves rapidly, Project FairWeb was developed as an Internet surveillance and enforcement strategy
- The initiative redesigned work processes to respond to issues in the electronic marketplace more efficiently and effectively
- Online searches are performed from a model representing terms likely to be indicators of fraud. Multiple, complex queries are simultaneously performed while eliminating duplicates and ranking sites according to ‘goodness of fit’





Deceptive Health Claims

- Application of FairWeb Model
- The Bureau has been actively pursuing performance claims, particularly in targeting questionable health performance claims in the electronic marketplace, i.e.
 - Weight Loss
 - Diabetes cure-alls
 - Cancer cure-alls



Deceptive Health Claims (cont'd)

FatFoe Eggplant Extract - Fat Blocker - Microsoft Internet Explorer provided by COMPASS

File Edit View Favorites Tools Help

Back Forward Stop Home Search Favorites Media

Address <http://www.wemarket4u.net/fatfoe/> Go Links

With FatFoe™ Eggplant Extract you can  your dieting days goodbye!

Feast on Your Favorite Foods...



and Lose up to 2 Pounds a Day!

Click Here to **ORDER NOW!**

[FatFoe™ FAQs](#)
[Success Stories](#)
[Contact Us](#)
[En Español](#)
[En Français](#)

Wouldn't it be nice to enjoy your favorite foods – pizza, pasta, fried chicken, gooey chocolate deserts – and watch the pounds melt away? Best of all, wouldn't it be nice to have the trim, shapely figure you've always wanted without having to diet or exercise? **NOW – FINALLY – YOU CAN!**

How it works: Just take two FatFoe™ capsules before each meal. The safe, all-natural active ingredient in FatFoe™, auberginium, binds with food to block the absorption of fat, carbs, AND calories. Lose up to 10 pounds per week – with no sweat, no starvation!

Every Dieters Dream!

FatFoe™ is **GUARANTEED** to work for everyone – regardless of how much you eat, regardless of how much you'd like to loose. With FatFoe™, kiss calorie counting and sweaty exercising good-bye as you lose those unsightly pounds permanently!

Order Today!

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Take this quiz to find out if FatFoe™ is right for your unique metabolism.

Yes	No	I tend to gain weight around the hips and thighs.
<input type="radio"/>	<input type="radio"/>	
Yes	No	I find it hardest to control my appetite late at night.
<input type="radio"/>	<input type="radio"/>	
Yes	No	I've tried other diets before, but have never been able to keep the weight off.
<input type="radio"/>	<input type="radio"/>	
Yes	No	I have a family history of weight gain.
<input type="radio"/>	<input type="radio"/>	
Yes	No	I sometimes step on the scale and find that I've gained 3-4 pounds
<input type="radio"/>	<input type="radio"/>	

Internet

Deceptive Health Claims (cont'd)

Don't Get Scammed! - FatFoe is a fake product posted by the FTC to warn consumers about diet ri - Microsoft Internet Explorer p

File Edit View Favorites Tools Help

Back Search Favorites Media

Address http://www.wemarket4u.net/fatfoe/order.htm

FEDERAL TRADE COMMISSION - WWW.FTC.GOV YOU COULD GET SCAMMED!

Wouldn't it be nice...

Yes. But it's too bad that ads like this are almost always false. **FatFoe** is **not** a real weight loss product. The ad to which you responded is a fake, posted by the Federal Trade Commission and the Competition Bureau of Canada to warn consumers about diet rip-offs. Roll-over the underlined text below or the list of claims on the right to learn more about how to tell the difference between a rip-off and the real thing!

Wouldn't it be nice to enjoy your favorite foods – pizza, pasta, fried chicken, gooey chocolate deserts – and watch the pounds melt away? Best of all, wouldn't it be nice to have the trim, shaply figure you've always wanted without having to diet or exercise? **NOW – FINALLY – YOU CAN!**

How it works: Just take two FatFoe™ capsules before each meal. The safe, all-natural active ingredient in FatFoe™, auberginium, binds with food to block the absorption of fat, carbs, AND calories. Lose up to 10 pounds per week – with no sweat, no starvation!

Every Dieters Dream!

FatFoe™ is GUARANTEED to work for everyone – regardless of how much you eat, regardless of how much you'd like to loose. With FatFoe™, kiss calorie counting and sweaty exercising good-bye as you lose those unsightly pounds permanently!

Order Today!

You've read about products like this in the news. You've seen them on TV. To facilitate distribution FatFoe™ is available **ONLY** on the Internet. You can't buy it in stores. ORDER today while supplies last.

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Order now and get a free 60-day trial of FatFoe™

How can you spot false weight loss claims in the future? An ad is probably a diet rip-off if it promises:

- * you can eat your favorite high-calorie foods and still lose weight!
- * you can lose weight without diet or exercise!
- * a product can block the absorption of fat, carbs, or calories!
- * a product can make you lose more than 3 pounds a week!
- * a product will work for everyone!
- * a product will cause you to lose weight permanently!
- * any patch, cream, gel, etc., can help you lose weight!

The only thing you're guaranteed to lose is your money.

Internet



Project False Hope

- As part of our health initiative under deceptive health claims, the Bureau launched Project False Hope:
 - This was a significant priority for the Bureau
 - This particular initiative was focused on phony cancer cure claims.
 - The tag line for this project was: “Fighting cancer is hard enough. Don’t let fraud make it harder.”





Project False Hope (cont'd)

- This campaign again focuses heavily on education combined with enforcement
- Results of enforcement initiative: Over 90% of the identified sites complied with the Bureau's demand to modify or remove the claims at issue. Additional measures were taken to obtain compliance from the remaining 10%.



Anatomy of an Online Health Scam



The screenshot shows a Microsoft Internet Explorer browser window displaying a website titled "Competition Bureau - Anatomy of an Online Health Scam". The address bar shows the URL: <http://competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/02586.html>. The website content is as follows:

Ensuring Truth in Advertising
Investigating Cartels
Preventing Abuse of Market Power
Reviewing Mergers
About Us
Job Opportunities
Our Legislation
Our Organization
Resources
Fraud Prevention
[Health Portal](#)
Legal Actions and Opinions
Media Centre
Publications
Public Consultations
Tools
[CA Identification Number](#)
[Online Forms](#)
[Labelling Corner](#)
[Multi-Media Tools](#)
[Site Map](#)
[FAQs](#)

Natural Herbal Formula

Ingredients Testimonials Cancer Info FAQs Contact Us Order Now

"Natural Herbal Formula - Ancient traditions and new innovations with your health in mind."

Your Best Hope to Cure Cancer Naturally

For **hundreds of years**, *Natural Herbal Formula* has been used to **treat many illnesses such as cancer.**

Source of Ingredients

 **Our recipe has been passed on from tribal healers for hundreds of years and now we produce it using the highest laboratory controls and standards. Using only the highest quality ingredients available anywhere, *Natural Herbal Formula* is prepared by a Hawaiian Healer who has been practicing traditional remedies for more than 40 years. We've taken the traditional formula used by our ancestors and made it even better!**

Satisfaction Guaranteed

Grown in the volcanic ash exclusive to the Hawaiian islands, *Natural Herbal Formula* is made with pure pomegranate, mangosteen, vitamins B, C and D, catsclaw, ginseng, and other natural ingredients, *Natural Herbal Formula* can be used to **treat and prevent cancer and more.** Read some of our client success stories to see how it can work for you too!

How does it Work?

 *Natural Herbal Formula* uses your immune system as a roadmap to locate your cancer. *Natural Herbal Formula* then takes over where your immune





Questions



**Additional information available
at
www.competitionbureau.gc.ca**

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