



ANDERSON STRATHERN  
SOLICITORS



# **MARKETING YOUR GREEN CREDENTIALS**

25 June 2008

Bruce Farquhar  
Partner



# OBJECTIVES

- Legal Overview
- Practical Guidance
- Examples of failed “green claims”



# ARE YOUR ACTIVITIES LIKELY TO BE REGULATED?

## Types of Activities

- Above-the-line advertising
- Below-the-line advertising
- Design/Packaging



# LEGAL OVERVIEW

## THE CONSUMER PROTECTION FROM UNFAIR TRADING REGULATIONS 2008

### **Prohibits:**

- Misleading actions
- Misleading omissions
- 31 specific prohibited acts

### **Enforcement:**

- OFT
- Local Trading Standards

### **Sanctions:**

- Fine (up to £5,000)
- Imprisonment

Also note: The Business Protection from Misleading Marketing Regulations 2008



# SELF REGULATION

- **Various Industry Watchdogs**

Advertising Standards Authority (ASA)

- Broadcast Media (BCAP Code)
- Non Broadcast Media (CAP Code)

Code Principles:

- legal, decent, honest and truthful
- prepared with sense of responsibility to consumers and society
- not mislead by inaccuracy, ambiguity, exaggeration or otherwise
- need documentary evidence to objectively substantiate all claims



# CAP CODE

## **Environmental Claims**

- explain basis of environmental claims
- qualify claims where necessary
- acknowledge where informed debate exists
- “cradle to grave” assessment when considering a product’s environmental impact
- don’t use confusing or pseudo-scientific claims

Also note Green Claims Code

## **ASA Sanctions**

- Increasing number of complaints (449 complaints Jan – Sept 2007)
- predominantly motoring, airline and energy
- no power to levy fines
- can require changes to advertising



## PRACTICAL ADVICE

- ✓ Get your facts right
- ✓ Claims should be backed up with documentary evidence
- ✓ Don't present claims as universally accepted if science is inconclusive
- ✓ Don't use pseudo-science terms
- ✓ Avoid sweeping and absolute claims (eg environmentally friendly/non-polluting)
- ✓ Claims should be relevant to the product



# CONCLUSION

- Consider statement of intent
- Don't be scared to properly promote your green credentials
- If in doubt, seek legal advice



1 Rutland Court  
Edinburgh  
EH3 8EY

Tel: +44 (0)131 270 7700

Fax: +44 (0)131 270 7788

DX ED3 Edinburgh 1

[www.andersonstrathern.co.uk](http://www.andersonstrathern.co.uk)

24 Blythswood Square  
Glasgow  
G2 4BG

Tel: +44 (0)141 242 6060

Fax: +44 (0)141 221 4733

DX GW157 Glasgow

[www.andersonstrathern.co.uk](http://www.andersonstrathern.co.uk)