

Taken from Eversheds Sutherlands Global Advocate Quarterly Newsletter second edition published November 2024. ARPP's Report on environmental advertising 2023/24.

<https://www.eversheds-sutherland.com/dfsmedia/5773992fa8424b37ace0cac119d920b9/23592-source>

In France, the ARPP has drafted a "Sustainable Development" Recommendation in force since 1 August 2020. The assessment commented on here provides an overview of the main non-compliances of environment-related advertising with regard to this recent Recommendation.

The Report is interesting because environmental considerations are a fast-growing topic in the advertising sector in France. Over 1,000 environment-related advertisements were analyzed by the ARPP revealing a compliance rate of 93.6%.

The main breaches concern advertising that misleads consumers or makes disproportionate claims about the properties of products or the actions of the advertiser.

The Report provides an analysis grid on the criteria for assessing the grounds for non-compliance

- (i) for advertising "encouraging non-eco-responsible behaviour" and
- (ii) for misleading advertising.

1. for advertising "encouraging non-eco-responsible behaviour":
 - there is no doubt as to the reality and the "anti-environmental" scope of the behaviour
 - the behaviour is obvious and present at the heart of the message's main argument
2. for advertising that is likely to mislead:
 - the ecological argument is at the heart of the main argument of the advertisement
 - the claim is unfounded or very excessive
 - the non-compliance with the rules is multiplied: several redundant elements (text, visuals) converge to strongly establish an abusive ecological position
 - information that could inform consumers about the basis and scope of the environmental claim is non-existent
 - several of these shortcomings are combined in the same message.

For example, the Report considers expressions such as "positive impact", "preserve the planet", "eco-responsible brand", "ecological swimming pool", "sustainable crockery", "virtuous solutions for the environment", "responsible and committed beauty", "eco-responsible initiatives" to be abusive. Also, the Report indicates that advertisements must not lead the public to believe that the purchase or use contributes to "protecting" the planet or will have a "positive" effect. The claim must be qualified ("less impact", "more ethical", "more responsible", etc.).

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