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Standard Guide for Sensory Claim Substantiation[1]

This standard is issued under the fixed designation E 1958; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon (ϵ) indicates an editorial change since the last revision or reapproval.

INTRODUCTION

No format or standard for testing related to claim substantiation can be considered without a frame of reference for where that format or standard would fit within the legal framework that surrounds the topic. Tests are performed for three basic reasons:

(1) To determine how a product compares to another, usually a competitor or earlier version of itself;

(2) To provide the ability for marketing to use positive references in their presentation of the product to the consumer through advertising or packaging; and,

(3) To determine if a product actually performs within the scope of its intended use.

Whenever a claim is strong, it will be scrutinized closely by competition, and if found inconsistent with a competitor's test data, it could well be challenged in one or more forums. It may be challenged at the National Advertising Division of the Council of the Better Business Bureau, Inc./National Advertising Review Board (NAD/NARB), one or more networks, or in any of a variety of courts. No single test design or standard test will prevent a challenge. The criteria used by each of the potential forums are not identical and are constantly in a state of evolution. What was sufficient five or ten years ago probably would not be acceptable today and what will be required ten years from now is pure conjecture. What can be counted on is that as advocates of their client's positions, attorneys will defend tests they do while questioning, with great detail, every aspect of a competitor's protocol in the attempt to sway the arbiter to agree that they are in the right. So what is one to do? How can a standard be helpful?

This guide demonstrates what a group of professionals, skilled in the art of testing, considers reasonable. This represents a more effective method for both the defendant and the challenger to determine the viability of a claim. The keyword is "reasonable." If a particular aspect of a test is not reasonable for a specific application, it should not be used. Care should be taken to clearly define the reasons and data supporting a deviation from the standard, as such a departure surely will be scrutinized. Because of the necessity of such departures, the word" should" is used in this guide where other techniques may have application in certain unusual circumstances. Whenever a test protocol has been completed, it should be critiqued for weaknesses in reasonability. If you find weaknesses, they should be corrected, since your competition surely will point them out. But what is reasonable? There is no specific answer to that question. What is reasonable will depend on the company making the claim and its posture toward advertising. Some companies are aggressive; others are conservative. It will depend on the nature of the claim and the status of the competitor, the magnitude of the advertising campaign and the frequency of the advertisement's exposure. It will be affected by market pressures, such as timing, and of course, testing budgets, and the internal dynamics of a company's marketing and legal/regulatory approval departments. You can be certain that your competitor will consider your test unreasonable. This consideration is a given and does not matter. What does matter is that the forum reviewing your test considers it more reasonable than your competitor's challenge.

1. Scope

1.1 This guide covers reasonable practices for designing and implementing sensory tests, which validate claims pertaining only to the sensory characteristics of a product. A claim is a statement about a product, which highlights its advantages, sensory attributes or differences compared to itself or other products to enhance its marketability. Attribute, performance, and hedonic claims, both comparative and noncomparative, are covered. This guide includes broad principles covering selecting and recruiting representative consumer samples, selecting

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