Specsavers v Luxottica advertising case causes quite a spectacle

There’s a fine line between acceptable advertising BS, or puffery, and misleading or deceptive conduct. Often you only find out that you’ve crossed the line when the ACCC rings or the court proceedings are served.

Specsavers recently challenged ads from their competitors, Luxottica (OPSM). These guys must hate each other if you judge by the number of times they’ve been in court.

The ads in question were for ‘Accufit’, OPSM’s system for helping customers choose prescription glasses. Of most interest were claims that Accufit gave ‘better’ results (Better Claims), and claims that “once upon a time, fitting your prescription lenses involved a ruler, a felt pen and a steady hand” (Ruler Claims). Here’s an example.

Specsavers said these were comparative claims, inferring that OPSM’s frames and lenses were better than those of their competitors and that competitors actually do use rulers and pens to fit glasses.

The court didn’t agree. It found that ordinary people wouldn’t take the Better Claims to relate to the quality of OPSM’s frames or lenses, but rather to the fitting services. And the Ruler Claims referred to traditional methods rather than those of current competitors, underscored by the use of ‘once upon a time’.

There are a couple of things we can learn from the case.

• If you compare your products to someone else’s products, or advertise a measurable quality or consequence, you need to be able to back it up. But a degree of puffery is fine.

• Think carefully about any strategy that involves suing your competitors for their advertising. You want to have a pretty strong case otherwise your time and effort will be better spent on your own business... Not to mention that the negative press following a loss can make you look like a goose.

Questions? Give us a call.