



PROVE IT!

A MARKETER'S GUIDE TO AD CLAIM SUBSTANTIATION

RTi
RESEARCH

FROM DATA
TO MEANING®

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INTRODUCTION

Marketers love to make claims about their products and services. Why? Because ad claims work. Remember "The Pepsi Challenge"? (If not, check out Roger Enrico's *The Other Guy Blinked: How Pepsi Won the Cola Wars*, about Pepsi's role in the introduction of New Coke.) Or how about "4 out of 5 dentists recommend Trident for their patients who chew gum"? And we all know that "Kraft Macaroni and Cheese is the Cheesiest!" Ad claims allow marketers to create news for their products and, more importantly, to own a particular position in the minds of their customers.

And the tougher, the fiercer the competition, the more likely marketers will look for that one claim they can advertise that will separate their brand from the pack.

But as a marketer you can't just make a claim in your advertising. You have to be able to prove it. And that can mean ad claim substantiation research. Whether you are protecting yourself against real or potential legal challenges from competitors or regulators, or challenging a competitor's claim, you need to have proof that meets industry and legal standards. We call ad claim substantiation research the simplest, most complex research you'll ever design.

Maybe you've yet to run across this particular wrinkle in the marketing research landscape. But what if you do? As your mother told you, "An ounce of prevention is worth a pound of cure." This is definitely a case where what you don't know CAN hurt you!

This publication provides a brief overview of ad claim substantiation research. If you want to know more, call the experts at RTi. We're here to help.

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USING AD CLAIMS IN MARKETING

The most critical role for the corporate insights professional in an ad claim substantiation initiative is to ensure that all team members are on the same page regarding:

1. **the claim being made,**
2. **how the essence of the claim will be communicated or portrayed, and**
3. **what research will be needed to support the claim.**

It is often difficult to nail down these considerations in the early phases of the creative process, but it is critical that the research accurately supports and exactly reflects the claim that is being made, which includes the way it is communicated or portrayed in ads or other marketing materials. Will your ad show adults and kids using the product? Then consider including adults and kids in your research. Is the product typically used in conjunction with other products? Then it may be appropriate for the research design to reflect that.

EXPLICIT VS. IMPLIED CLAIMS

One of the underlying principals in understanding ad claims is that they can be either explicit or implied. An explicit claim is made when you say the claim directly; an implied claim can exist when the claim isn't said directly, but a reasonable person could assume it based on other statements you have made or images you have used. This is one of the biggest traps for marketers, so think very carefully about what implied claims might exist, even if you didn't intend them!

For example, Bayer Healthcare challenged the claim that "Frontline Plus unleashes a complete killing force" with an animation of ninja-like creatures killing all the fleas and ticks on a pet within moments of the product's being applied. The challenge was predicated on the fact that it actually takes hours for the product to reach full efficacy. The NAD (National Advertising Division of the Council of Better Business Bureaus) recommended that the advertisement be modified to avoid conveying a message or implication of immediate efficacy.



Whether explicit or implied, ad claims can be categorized into four broad categories:

COMPARATIVE CLAIMS

By far the most valuable and widely used claim is the comparative claim. Because these claims “call out” one or more competitors, they are also at the highest risk of being challenged and, therefore, the most likely to require substantiation through survey research.

Comparative claims are further broken down into three types:

1. **Claims of superiority over the competition** – for example, Kraft's Philadelphia Cream Cheese on-pack claim that “Consumers prefer the taste of Philadelphia.”
2. **Claims of parity/equality with competition** – for example, Purity Vodka's claim that “one in two Grey Goose drinkers prefers the taste of Purity Vodka” (an interesting way to communicate parity).
3. **Claims of superiority vs. yourself** – for example, the Rice Krispies package claims, “Now helps support your child's immunity” – the word “now” suggests that the formulation has been changed to deliver this new benefit.

NON-COMPARATIVE CLAIMS

Non-comparative claims are usually about product performance and do not make a comparison to either competitive or previous products. Huggies Natural Care provides an example of this on their packaging when they claim that their diapers are “soft and sensitive.” There is no comparison to competitors, nor to other Huggies disposable diaper products. However, because “soft” and “sensitive” could be considered subjective sensorial properties, Huggies would want to consider consumer substantiation to support this claim.

MARKET PERFORMANCE CLAIMS

Market performance claims are typically proven by industry measurement or syndicated research, and not by consumer research. For example, if a company claims to have the top-selling product, industry metrics can demonstrate whether or not this is true. Based on sales data, Ford has long touted its “F” series as “America’s Best-Selling Trucks”.

SCIENTIFIC/TECHNICAL CLAIMS

Scientific and technical claims are typically proven by scientific or technical analysis and not by consumer feedback. An interesting recent example is Purina Beggin’ Strips dog snacks’ on-pack claim that the product is “made with real bacon.” It can be technically proven that the product contains bacon. Interestingly, however, the manufacturer, Nestlé Purina, is being sued by a consumer who claims the advertising is misleading because of the relatively small amount of bacon in the product compared to what he believes is implied by the on-pack and advertising communications.

This case highlights the fact that even if a claim is technically/scientifically proven, marketers must also consider whether a “reasonable consumer” could walk away from the ad with a misleading message.

Does Your Claim Require Substantiation?

Not all claims require substantiation. There is a class of claims called “puffery” which includes:

- 1. Exaggerated Blustering.** Have you seen the television ad where the tough, burly construction worker is floating around his construction site due to his super-comfy feet? Clearly, consumers would not believe that wearing Dr. Scholl’s Gel Inserts in their shoes would enable people to fly. That is clearly puffery. Even a claim of “Our product is GREAT!” (not tied to any specific benefit) is considered a general exaggeration and would not typically require consumer substantiation.



- 2. Commonly Accepted Truths.** An advertising claim of "Our cold beverage is refreshing" is accepted to be true for cold beverages, just as it is commonly accepted that warm beverages are comforting. No substantiation needed.
- 3. "Many People" Statements.** The claim "Many people love our product" is assumed to be puffery. Beware, however, as a simple change in the statement transforms it into a claim requiring substantiation: "The majority of people love our product" or "All people love our product" takes the claim out of the "many people" category of puffery.

The question of whether a claim is puffery is often one of degree: how exaggerated is the claim? That is why one of the most important responsibilities of the corporate or brand researcher is to ensure that everyone on the team is educated about ad claim substantiation and understands where the pitfalls lie. What the ad will say – and even what the ad will show – can make the difference between a successful campaign and a lawsuit.



IT'S THE LAW!

The whole area of ad claim substantiation was born out of the Lanham Act in 1946. Administered by the Federal Trade Commission, the Lanham Act's purpose is to prevent false and misleading advertising as well as to prohibit unfair acts or practices that cause (or are likely to cause) substantial injury to consumers.

It's not just you as the marketer, your lawyers, your competitors, and their lawyers who are attuned to your advertising. Multiple outside bodies have a role in maintaining truth in the advertising industry:

The National Advertising Division (NAD) of the Council of Better Business Bureaus handles many ad claim disputes in the U.S. and Canada. This board of attorneys reviews claims made in advertisements and can offer alternative dispute resolution with voluntary compliance to help marketers self-regulate and avoid costly litigation.

The Federal Trade Commission (FTC) enforces truth-in-advertising laws, with a special focus on advertising claims that can impact consumers' health or wallets.

ASTM International is a global organization which has established standards for more than 12,000 products and services. These standards and guidelines specify how products should be tested in substantiating ad claims about product formulations.

Television broadcasters have long had media guidelines that dictate what kind of advertisements (as well as programming) can be shown on what screen, when. And now with the proliferation of social media outlets, from Facebook to blogs, advertisers are often in uncharted territory and learning about best practices on the fly.

And last, but not least, we have the courts, where advertisers always have the option to challenge ad claims.



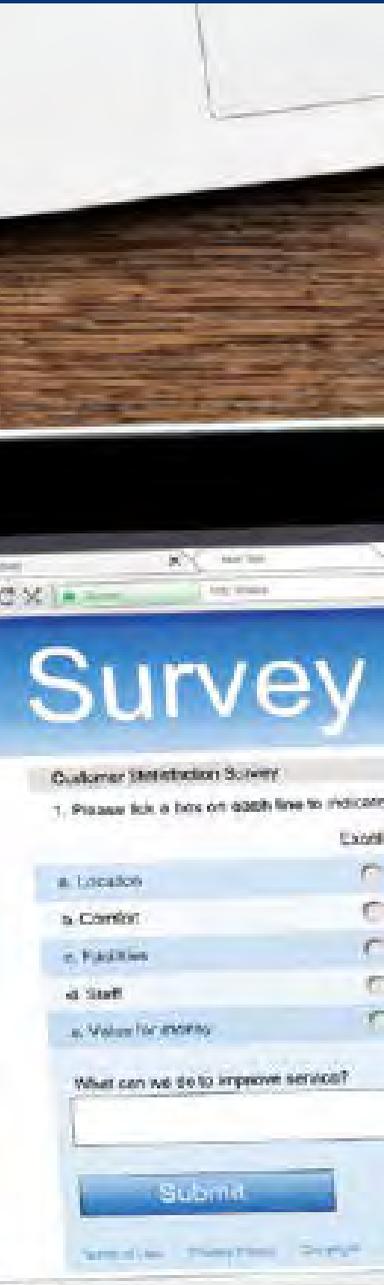
HOW TO BULLET PROOF YOUR AD CLAIMS RESEARCH

Ad claim substantiation research is very different from other research initiatives in many ways, including design considerations, executional details, and reporting. From a design perspective, recognize that the intent of the research is to prove (or disprove) a single claim, and that the audience for your results is not only internal marketing or sales staff but also internal and external lawyers, judges, regulators, and possibly others. Research execution must have extremely rigorous quality controls built in; there are multiple additional checks and balances that should be present. In terms of reporting, rather than the typical comprehensive report or presentation of insights and recommendations, the report should focus solely on the proof of the potential ad claim.

Recognize that anyone attempting to discredit your claim will likely focus on your expert's credentials, your methodology, or both. Expect and prepare for every aspect of the research to be scrutinized as to what was done, why it was done that way and not another, and how you know the results are valid and accurate.

At the same time, the research must be very tightly focused and address only the claim question, because any other questions could become vulnerabilities. Any questions beyond the one asked to substantiate the claim could potentially be used by competitors in an attempt to disprove or cast doubt on claim substantiation.

For example, asking consumers two questions – “Which product do you prefer for overall taste?” AND “Which product do you prefer for chocolate taste?” – could lead to a situation where you can substantiate one of these claims but not the other. If you make that one claim, a challenger could argue that these two sensory elements (taste and chocolate taste) are so inextricably linked that if you can't substantiate both, you can't use either one. Don't fall into this trap! Most ad claim substantiation research asks only one question!



CASE STUDY: PASTA SAUCE AND QUESTIONABLE CHOICES

You probably remember the Prego television advertising campaign featuring their taste test against Ragú (made by Unilever).

Announcer: "Even Ragú users choose Prego Traditional over Ragú Traditional."

Visual: Woman consumer prefers Prego Traditional over Ragú Traditional sauce.

Consumer: "Prego? But I buy Ragú. I wonder what other questionable choices I've made?"

Visual: The woman makes a series of bad hairstyle choices.

Announcer: "Choose taste. Choose Prego."



Unilever challenged Campbell's (maker of Prego), saying that the ads communicated an implied claim that Ragú users prefer the taste of ALL Prego pasta sauces over ALL Ragú pasta sauces.



Because Prego's taste test research compared only one variety, Prego Traditional sauce vs. Ragú Old World Style Traditional sauce, Unilever alleged the research could not substantiate the implied "line" claim.

Campbell's responded with an online survey of 324 national consumers which showed that "only 11%" believed that the claim referred to preference for the entire line of pasta sauces from Prego and Ragú.

However, the NAD of the Council of Better Business Bureaus was not impressed with Campbell's survey research:

- The NAD pointed out that respondents repeatedly referred to "Prego" and "Ragú" and not Prego Traditional or Ragú Old World Style Traditional.
- Additionally, only about 1% of survey respondents used terms such as "product" or "sauce" and only three respondents referenced by name one of the sauces compared.
- Further, the NAD criticized the question formats used by Prego and concluded the survey was not sufficiently reliable.

The NAD ruled that these findings strongly suggested that very few respondents actually interpreted the claim to mean only those two specific products vs. a claim pertaining to the entire line of sauces.

The NAD also found that the copy used general brand references and did not adequately limit the applicability of the claim to a single variety. Even Prego's disclosure ("Prego Traditional vs. Ragú Old World Style Traditional") was insufficient to establish that only two varieties were being compared, as it appeared only very briefly in the 30-second commercial. All of this resulted in the NAD finding that Prego communicated an unsubstantiated line claim message and recommended that Prego modify or discontinue its ads.

FIVE CRITICAL TIPS FOR BETTER AD CLAIM SUBSTANTIATION RESEARCH

The devil is in the details. Never was that saying truer than when talking about ad claim substantiation research. Each regulatory body, each industry, each type of claim has its own set of standards and best practices that can make the difference between successfully supporting (or challenging) a claim and having your ad pulled and your investment wasted. Here are some important tips that we have learned through decades of conducting ad claim substantiation research.

- 1. Team Alignment.** Conduct the research before the advertising is finalized, making sure all stakeholders are aligned on the desired claim and how it will be executed so the research can be designed appropriately.
- 2. The Right Sample.** Make sure you are talking to the right consumers. A general rule of thumb is to use the broadest relevant target for your sample, which is often category users.
- 3. The Right Context.** Depending on your product or service, context can also make a difference. Take into account seasonality (e.g., test hot chocolate in winter, ice cream in summer), raw materials variability, product packaging, product availability, and product age. And not just for your product, but for your competitors' as well.
- 4. Geography Matters.** If the claim supports a national advertising campaign, your research must properly represent the U.S. population. However, if you want to say that people in New Jersey prefer your brand, sample sufficient people in New Jersey.
- 5. Everything's Discoverable.** "Discovery" is the phase in a lawsuit when both sides share their evidence. As you work through your claim substantiation research, keep in mind that everything could become part of a lawsuit.



SUMMARY

Did we mention that we call this the simplest, most complex research you'll ever design?

This publication has only scratched the surface of what we know today. And don't even get us started on what we'll need to know tomorrow as social media and other digital marketing campaigns stretch consumers' ability to separate fact and fiction.

RTi has had extensive experience with ad claim substantiation research. Our experts stay on top of changes in case law and best practices. If you have questions – give us a call. We know the answer!

THERE'S STILL A LOT TO LEARN!

- What competitors should you include?
- What if the consumer needs to use the product over time?
- How can we make sure the product tested is consistent?

Key to Ad Claim Success:

RISK ASSESSMENT & MANAGEMENT

All business decisions are fundamentally about managing risk and reward. If you and your team are discussing the possibility of using a claim in your marketing, one of the topics you will consider again and again is how much risk you are incurring and how to manage that risk. And, if you go on to conduct marketing research to substantiate your claim, the risk assessment/mitigation discussions will be part of that process as well.

Say you've made improvements to one of your brands and you're excited to share the news with your customers; you will likely discuss different ways you can communicate your message. Aside from determining what claim would be most motivating to consumers, you will assess the associated risk: the likelihood of a challenge to each of the claims. Different claims carry different levels of associated risk.

For example, claiming that your product is "new and improved" with no mention of or comparison to other products, could have a relatively low risk of being challenged. After all, you are not claiming to be better than anyone. In fact, "new and improved" claims can only be used for six months, so if someone were to challenge you, the life of the claim could very well have run out by the time the challenge was heard.

Claiming "Our product tastes better than brand X" may carry a greater risk of being challenged, as the competitor against whom you are making the claim could suffer damage (i.e., lose market share) because of consumers' reactions to your claim. Making a claim that "Our product is the best tasting brand" could mean even more risk of a challenge because you are now putting several of your competitors on the defensive.

So, how are you going to manage your claim's risk of being challenged? There is, of course, no one right or wrong answer to this question – it all depends on your company's risk tolerance. Thus, it is important that all stakeholders in the organization understand and are willing to accept the risks associated with making a specific consumer claim.



Here are some tips on managing risk throughout the claims substantiation process:

- **Does the Claim Seem Fair?** One of the guiding principles of making a consumer claim – and a good way to mitigate risk – is that it should always be fair from the consumer's point of view. There should be no false or misleading assertions, whether intended or accidental. What is fair is, arguably, judgmental. However, a good first step is to put your "consumer hat" on and determine whether YOU would feel the claim and the research supporting it are fair.
- **Research Your Claim.** Designing consumer research to support your claim will also require ongoing discussions about risk and how best to mitigate it. Understandably, the creative team typically wants to keep their options open regarding specific wording and ad execution. However, if either claim wording or execution differs from the research design, the team will once again have to understand and assess the level of risk introduced.
- **Align Research Methodology with Claim.** On a more tactical, but no less important level, decisions about which methodology to use, who the sample should include (and exclude), which geographies should be covered, and how the product should be sourced/handled/prepared also necessitate an assessment of risk.
- **Stay Abreast of Precedents and Standards.** Understanding the underlying standards of, and previous decisions passed down by, the courts and regulatory agencies ensures that you are operating under the appropriate guidelines as you make these risk assessments.

Ad claims can be powerful marketing tools. To ensure successful execution, you will want to encourage the team to have open and frank discussions about risk throughout the initiative. The key is aligning everyone's understanding and expectations from the start.

Ad Claim Substantiation Research:

WHICH RESEARCH DESIGN IS BEST?

CASE STUDY #1: How Will Consumers Interpret the Claim?

A pet food package included the statement: “No chicken by-products.” The company was concerned that consumers might get the (incorrect) impression that the product contained no by-products at all. The company contacted RTi, and we designed a claims communication test.

This situation called for consumers to be asked a series of questions to assess whether there was a meaningful level of message confusion. This type of claims substantiation requires a very specific question sequence that begins with showing consumers the actual packaging and asking broad, open-ended questions about what they “took away” from the packaging, followed by several increasingly focused questions about the ingredients messaging.

RTi reviewed consumer feedback across the different questions to assess the level of correct recall (no chicken by-products) vs. incorrect recall (no by-products). Unfortunately, we found evidence that a meaningful group of target consumers did, in fact, take away the incorrect message. Accordingly, we counseled our client to modify their on-pack messaging to more clearly communicate the “no chicken by-products” claim.

CASE STUDY #2: To Challenge or Not to Challenge a Competitor’s Claim?

RTi’s client marketed a snack product in a category where two brands own the lion’s share of volume, with our client being the category leader. Our client’s close competitor had recently added an on-pack claim that “Our product tastes better than (category leader’s product).” Understandably, our client felt this claim could have a negative impact on their business. They asked RTi to help them determine whether they should challenge the competitor’s claim.



We designed the research to determine whether the competitor could, in fact, have consumer substantiation for the claim. The RTi taste test was identical to the research we would have designed to substantiate a taste superiority claim for our own client.

The results showed the brands at statistical parity. However, the competitor DID have a numerical preference win such that, taking into account the error range around the result, the outcome could have been a preference win for the competitive brand had the test been repeated. Given this finding, the client decided not to challenge the competitor and, instead, to reformulate so they could make a claim that their product had a "new and improved taste."

CASE STUDY #3: Testing "Over Time"? Get Creative!

While legal claims substantiation research can legitimately be conducted using different methodologies, the central location test remains the Gold Standard because it provides the ability to control for testing variables. A client asked RTi how best to design research to substantiate the claim that their dairy product "Remains fresh over time," given that the on-package instructions indicated the product be used within five days of opening.

Typically, research would be done using an in-home usage test over a five-day period. We creatively modified a central location test, setting up a detailed schedule of opening and re-closing packages to simulate usage over time. Each consumer tasted three "different" products, each opened on a different day prior to the interview, and was asked to rate the product's freshness. In this way, we replicated a five-day in-home use scenario in central locations, allowing for the control desired for legal claims substantiation research.

The research results led us to advise our client that they were on sound footing and could proceed with the "fresh over time" messaging.

In the high stakes world of claims substantiation, you can't afford not to have a partner who can help you think through all potential research design implications.

5 STAGES OF SUCCESS

Successfully choosing and implementing an ad claim as part of your marketing effort requires serious consideration throughout the entire process. From beginning to end, here are the five key stages of developing, supporting, and defending an ad claim:

1

START AT THE BEGINNING: CHOOSE THE RIGHT CLAIM

- 2 Work with your team to determine what claim best fits your brand strategy.
- 2 Consider doing some exploratory research before further pursuing the claim to make sure the claim is relevant and motivating to consumers.
- 2 Determine whether you may make the claim from a legal/regulatory perspective.
- 2 Consider whether there are other claims that could be made that would be as compelling, but easier to substantiate.
- 2 Check on the timing of any planned reformulations or product changes and evaluate what impact those plans have for testing the claim. You may decide to delay testing until after the changes are complete. If the decision is made to test ahead of proposed changes, be sure all stakeholders understand that there may be a need to re-test after the reformulation or changes.

2

CHOOSE THE RIGHT TYPE OF CLAIM SUBSTANTIATION

- 2 Make sure you need substantiation. If the claim is competitive in nature or makes an assertion/depiction of the presence of an attribute, you will probably need to either:
 - Substantiate among consumers if the claim is based on subjectivity (i.e., taste preference, great crunch, new and improved chocolate), or
 - Substantiate with relevant category metrics if the claim is based on something that can be objectively measured (i.e., #1 selling brand).



3 DESIGN THE RESEARCH TO SUBSTANTIATE YOUR CLAIM

- 2 Partner with a research agency with extensive ad claim substantiation experience.
- 2 Get educated on precedent/recent court or NAD decisions in cases where similar claims were made and challenged.
- 2 Work closely with your research agency to ensure that, at every juncture, you have fairness of design, so there is no real or perceived attempt to bias the results in your favor.
- 2 Get agreement from the entire team, including legal/regulatory, that the research design is appropriate to support your claim. Remember: a single word can change the meaning of a claim and, therefore, the research design necessary to substantiate it. For example, "Brand X tastes like Brand Y" requires different substantiation than "Brand X tastes just like Brand Y."
- 2 Discuss the sample universe carefully – defining your category can be tricky. For instance, if you are testing a decaffeinated coffee, should you survey all coffee drinkers? Or only decaf drinkers? There is often more than one correct answer, although the rule of thumb is to sample the broadest relevant target.
- 2 If you are making a competitive claim, discuss with the team which competitor(s) will be included. Also decide if you are seeking to make a claim on one SKU only or a line claim.
- 2 All research designs have limitations, and it is important that your team understand the limitations of the chosen research design. Make sure everyone understands what they will/will not be able to say and show in marketing materials if you substantiate the claim with the chosen research design.

4 ENSURE THAT AD EXECUTION REFLECTS RESEARCH DESIGN

- 2 Ensure the final advertising reflects the claim that was substantiated – in word and in execution. For example, if consumers in your research test tasted a slice of cheese, your advertising should show the product being eaten is not macaroni & cheese.
- 2 Make sure that the magnitude of your claim matches the consumer research results, without the potential to be misleading. For example, if your research showed that 55% of respondents preferred your brand and 40% preferred your competitor's, your ad should not show twice as many consumers lining up for your brand vs. your competitor's, as this implies a 2:1 preference.

5 IF YOUR CLAIM IS CHALLENGED

- 2 First, notify your legal team, as they will lead the way in managing the challenge.
- 2 Next, pull together any documentation requested by the legal team. Note that the level of detail needed can differ depending on the specific circumstances. Deliver exactly the information requested of you by your legal team.

Ad claims can be powerful marketing tools. Effectively using these claims creates differentiation and preference among your target audience, and leads to greater sales and profit. While managing the process of substantiating ad claims can be daunting, the reward can be well worth it.





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