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The Law of False Advertising: True Can be False, and False Can Be True

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Lewis Carroll's Humpty Dumpty may insist that his words mean only what he intends them to mean, and your advertising clients may insist the same about their advertising claims. Unfortunately for both Humpty Dumpty and your clients, the law evaluates the meaning of claims from the audience's perspective, not the speaker's. The practical effect is that advertisers are responsible for all claims that their advertisements could reasonably be interpreted to make, whether express or implied, as viewed from the consumer's perspective—not whatever their professed intention may be. Thus, even if a claim is literally true, it can be held as false advertising if the impression it leaves with the audience is false. Conversely, even if a claim is literally false, it may not be actionable as false advertising if the audience fully understands the meaning.