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A Further Empirical Investigation into “Up To” Advertising Claims: The “As Low As” Claim

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Abstract

For many years the Federal Trade Commission has sought to prevent deceptive advertising under Section 5 of the Federal Trade Commission Act. The FTC’s focus has encompassed not only false advertising claims, but also advertising claims that, while literally true, tend to deceive consumers. “Up to” claims fall under this scrutiny since they can be misunderstood as promising consumer benefits (e.g. “up to 50% savings”) that might not be realized by all consumers. This paper presents the results of research conducted with 600+ members of a commercial consumer panel to evaluate a variant of this type of claim, the “As Low As” claim, and to extend prior research by examining how interpretation of the claim varies with audience characteristics. Implications for advertising practitioners are discussed.

Keywords: *Up-to advertising, tensile advertising, Federal Trade Commission, As-low-as advertising*

Relevance to Marketing Practitioners: – Documents misinterpretations of “As low as” claims and suggests that they will receive the same level of scrutiny as “Up to” advertisements. Suggests targeted approaches.

Introduction

A central mission of the Federal Trade Commission (FTC) has long been to regulate unfair and deceptive acts or practices (Ford 1986). In 1983, it issued detailed guidance on the subject of deception in advertising, stating that for deception to occur, there must be a “representation, omission, or practice that is likely to mislead a consumer” acting reasonably in the purchase process, and that the deception must have a material impact (that is, the consumer’s choice likely would have been different were it not for the deception [Federal Trade Commission *Policy Statement on Deception* 1983]).

Recently the FTC expressed heightened interest in tensile advertising, which Mobley et al. (1988) explain as “a term borrowed from engineering where tensile means capable of being expanded...” (p. 273). Included are “Up To” claims, such as “Save up to 25%” or “Lose up to 30 pounds”. Such objective claims, while less specific than claims which present a single discount point, are nevertheless said to be more valuable to consumers than non-quantifiable “subjective” claims, e.g. those that do not mention an expected quantity of savings.

In the context of its review of energy savings claims by replacement window companies, the FTC sponsored research into whether consumers actually are deceived by these technically true advertisements (Hastak and Murphy 2012). In this research, personal interviews were conducted with a broad sample of consumers to gain their perceptions of hypothetical advertisements that offered heating and cooling bill savings of “up to 47%” through the installation of new windows. The study’s findings suggest that relatively large numbers of potential customers interpret the “up to” claim as offering the maximum benefit (e.g. 28% felt that “all or almost all” of the window purchasers should expect to save the maximum amount specified of 47% on their home heating/cooling bills). This research was used to support FTC enforcement activity against the replacement window companies (resulting in consent decrees) and has received much attention from the legal and advertising communities (see for example Arent Fox, 2012; Bachman, 2012; Federal Trade Commission, 2012; Perratore, 2012; and Winston, 2012).

Our paper presents the results of research to determine whether similar results would occur from using a variant of “up to” (the “as low as” claim) in a different direct pricing claim (savings on the interest rate of a financial loan product). Unlike some previous studies, we also report on individual characteristics associated with differences in interpretations, i.e. how respondents who correctly understand the claim differ from those who do not.

Following the lead of Hastak and Murphy (2012) we have focused our research on the following questions:

1. How many persons believe that all buyers would receive the “as low as” interest rate? Is this number substantially all of the respondents, or are there a large number who understand that this would be the lowest potential rate?
2. What differentiates those who believe all buyers would receive the lowest rate from those who do not? Do experience factors (e.g. currently having a home equity loan) or demographic factors impact perceptions? How about confidence in understanding of financial terms?
3. What direct impact, if any, does the nature of the sponsor of the advertisement (i.e. a bank versus a credit union) have on the perceptions?

Review of Relevant Literature

Retailers use a variety of promotional messages to stimulate interest, especially interest in visiting their online stores and brick-and-mortar locations. Advertisements of special limited-time promotions are common, and often include “tensile” claims¹. Tensile prices may be considered a form of reference prices (discussed for example by Grewal and Campeau 1999) which have been shown to enhance consumer perceptions of value and to reduce search effort (Grewal, Monroe, Krishnan 1998). Several academic papers have been published on tensile advertising itself and like the Mobley et al. article cited earlier, they have focused on effectiveness rather than on accuracy of interpretation. For example, Dhar, Gonzalez-Vallejo, and Soman, (1999) studied the impact of tensile claims versus exact ones and found that effects vary according to store image and percent of stock on sale. Consumers were found to evaluate not just the size of the prospective discount but the likelihood that the retailer will have an appealing product on sale.

Choi, Ge, and Messenger (2010) compared “scratch-and-save” promotions to tensile price claims and found that scratch-and-save promotions become more enticing than tensile price claims as the proposed discount increases. Biswas and Burton (1993) (1994) examined consumer reactions to tensile price claims and found that “up to” ads generally had more positive effects than ads that only mentioned the minimum savings or stated the entire range. The wider the range of savings, the greater the positive impact of the “up to” claim.

Method

Questionnaire development

A straightforward strategy was developed: to expose consumers to a hypothetical advertisement that included an “as low as” claim and assess their perceptual accuracy. Thus, the authors developed a simple advertisement for a home equity loan without regard to any disclosures that might be mandated in the case of an actual ad. In order to test sponsor effects, two versions of the ad were developed, with the offer and visuals the same in both versions. In one version the ad sponsor was a fictitious bank (“Cadbury National Bank”), while in the other the sponsor was a fictitious federal credit union (“Cadbury National Federal Credit Union”). Via random selection, about half the respondents reviewed the bank version; the other half the credit union version. Each version had a solid gray background, the graphic image of a house, and the following elements:

- A statement of a “limited-time offer”
- A statement of “Home Equity Loans, as low as 5.1% APR”
- Sponsors’ identification

¹These claims also are used in business to business advertising. One of the authors as head of litigation for a Fortune 500 company was intimately involved in a lawsuit against the company alleging that its advertising claims that its film processing equipment provided processing of “up to 20 rolls of film per hour” were false.

After being exposed to the ad, respondents were first asked the following three questions:

1. How well do you understand home equity loans?
2. How well do you understand how the APR works?
3. How aware are you that APR stands for Annual Percentage Rate?

The response scale for all three was a 5 point numerical scale anchored by 1= Not at all and 5 = Very much. “Not sure” was also offered as a response choice.

Then they were asked a fourth, critical, question: “In your personal opinion, what do you guess the average annual percentage rate (APR) will be for people who actually get this loan?”

Data Collection and Analysis

An online consumer panel operated by Harris Interactive (now a division of Nielsen), one of the industry leaders in consumer panel management (Hair et al. 2010), was used to collect the data. The questions and materials used in this experiment were embedded in a twenty-minute (average administration time) financial services tracking survey administered to residents of the Rochester, NY, Metropolitan Statistical Area in the fall of 2013. The questions appeared near the end of a questionnaire that focused more generally on respondents’ perceptions of certain financial services products (e.g. deposit, investment, and loan accounts). The survey also solicited demographic information from the respondents. The only survey qualifier other than geographic location was age (18 or older). The study was administered over a period of several days. As is common in panel studies, respondents were not aware of the sponsor of the study. Quality control procedures (such as embedded quality control questions and post-survey subjective analyses) were used to eliminate questionable survey respondents.

After post-fielding quality control measures were implemented, the final data consisted of 601 completions. Survey participants represented a wide spectrum of demographics and experience with financial service products (see Table 1).

Responses to the critical question: “In your personal opinion, what do you guess the average annual percentage rate (APR) will be for people who actually get this loan?” were reviewed individually and coded as needed. The following approach was used:

- Exact numerical responses (e.g. 5.1, 5.1%, .051) were converted to the same format but otherwise left as is
- For ranges (e.g. “5% to 6%”) the mid-point was used
- For text responses that did not provide a specific point or range, the following classifications were used:

- Indicated an accurate interpretation by stating that it would be a number at or higher than the 5.1% rate given
- Indicated an accurate interpretation by stating that the actual rate could not be determined (e.g. an informed “Don’t know”)
- Indeterminate classification – not used in the analysis

Results

The analysis which follows presents our investigation of perceptions of the offer as they vary by three categories of variables: demographics; experience with home equity loans and APR; and experience with the financial product.

1. How many persons believe that all buyers would receive the “as low as” 5.1% interest rate? Is this number substantially all of the respondents, or are there a large number who understand that this would be the lowest rate?

60.2% of respondents were classified as correctly understanding that the claim did not promise a 5.1% interest rate to all who obtained the loan. Included in this grouping were those who stated that the interest rate would be “at least” 5.1% or gave an actual guess that showed recognition of a rate higher than the minimum. Also included were those who gave an informed “Don’t know”, such as indicated by “need more information”. Of the 39.8% whose responses indicated misinterpretation of the offer, most said that it would be exactly 5.1%.

However, an inexplicably high percentage (11.0%) suggested that the average would be lower than 5.1 percent.² (See Table 2a.)

Gender		Education	
Male	30.3%	High school grad or less	20.4%
Female	69.7%	Some college	21.5%
total	100%	Associates degree	14.3%
Age		College/college graduate	21.5%
18-34	22.8%	Graduate courses/degree	22.3%
35-44	13.8%	total	100%
45-54	19.1%	Race	
55-64	24.1%	White	91.3%
65+	20.1%	Black	3.0%
total	100%	Other	5.7%
		total	100%

² Perhaps they misunderstood what the interest rate stood for. If that were the case an argument could be made that they accurately understood that the extreme rate (e.g. the lowest of “as low as” or the highest of “up to”) is not the rate that everyone receives.

Household		Financial products (%)	
Less than	16.0%	Mortgage	32.6%
\$25,000 -	27.2%	Auto loan/lease	36.2%
\$50,000 -	20.3%	Checking	94.8%
\$75,000 -	12.3%	Savings	75.2%
\$100,000 &	14.2%	Money market account	21.0%
Refused	10.0%	Student loan	19.5%
total	100.0%		

When the incorrect response of naming a rate lower than 5.1% was removed from the analysis (on the assumption that those respondents were not carefully reading the question), the revised correct percentage became 67.6%. Even with this adjustment, our judgment is that a substantial portion of respondents was misled by the claim.

2. What differentiates those who do not believe all buyers would receive the lowest rate from those who do? Do behavioral factors (e.g. currently has a home loan) or demographic factors impact perceptions? How about confidence in understanding of financial terms?

Demographically, statistically significant differences were found for men ($p=.01$), higher education ($p=.01$) and higher income ($p=.02$), as shown in Table 2a.

Table 2b shows statistically significant higher levels of total accuracy on the part of those having a home equity loan (72.5% accurate) than those who do not (57.9%) using chi-square testing at $p=.008$.

As indicated in Table 3a/3b, those who accurately interpreted the advertisement were more likely than those who misinterpreted it to state that they understood home equity loans ($p=.002$), understood the meaning of “APR” ($p=.001$), and understood how an APR works ($p=000$).

3. What direct impact, if any, does the nature of the sponsor (credit union vs. bank) have on the perceptions?

Sponsorship was found to have no direct effect on accuracy.. The percentage of accurate identification was almost identical (59.8% bank; 60.7% credit union) (Table 4).

To further understand the determinants of accurate perception of the offer, a logistic regression was conducted using “accurate perception of claim” (coded Yes/No) as the independent variable and the following as independent variables:

- Age (continuous)
- Experience (Has/does not have home equity loan)
- Gender (male/female)
- Education level (four levels)
- Race/ethnicity (white/other)
- Income (four levels)

While the resulting model was significant (model chi square = .000), neither the Cox & Snell R square (.079) nor the Nagelkerke R square (.107) were especially high. Examining the significance of the coefficients estimates (SPSS 1997), we see that the only significant variables at $p \leq .1$ were current use of a home equity loan (HELOC; $p = .057$) and knowledge of what APR means (KnowAPR; $p = .085$). The signs of both coefficients are in the expected direction (i.e. both are positive). (Table 5)

Table 2a								
Expected/Actual APR – Aggregated and by Segments								
	Accurate Responses				Inaccurate Responses			Grand Total
	Actual number given higher than 5.1%	Com - men t that it would be at least 5.1%	Do n't know	Accu - rate Total	Exact ly 5.1% given	Numb er lower than 5.1% given	Inac - curat e Total	
All Respondent	41.9%	9.5%	8.8%	60.2%	28.8%	11.0%	39.8%	100%
Men	50.3	10.3	7.4	68.0	21.7%	10.3%	32.0	100
Women	38.1	9.2	9.4	56.7	32.0%	11.3%	43.3	100
	Chi square total accuracy 6.402 p= .011							
Age								
18-34	43.0	6.6	8.3	57.9	28.9%	13.2%	42.1	100
35-44	45.3	6.7	8.0	60.0	29.3%	10.7%	40.0	100
45-54	33.9	12.5	8.9	55.3	34.8%	9.8%	44.6	100
55-64	40.3	11.2	9.0	60.5	30.6%	9.0%	39.6	100
65+	48.2	9.6	9.6	67.4	20.2%	12.3%	32.5	100

Chi square for total accuracy = 3.947 p= .413								
Education								
High school	25.0	4.6	13.	43.5	44.4%	12.0%	56.5	100
Some	49.6	5.0	8.3	62.8	26.4%	10.7%	37.2	100
College	50.0	15.0	5.8	70.8	20.0%	9.2%	29.2	100
Grad	43.3	15.0	7.1	65.4	22.0%	12.6%	34.6	100
Chi square for total accuracy = 19.951 p= .000								
Income								
Below	35.1	5.4	8.8	49.3	38.5%	12.2%	50.7	100
Below	43.3	8.9	10.	62.2	25.6%	12.2%	37.8	100
Below	44.5	10.9	8.4	63.9	24.4%	11.8%	36.1	100
Below	42.0	18.8	5.8	66.7	24.6%	8.7%	33.3	100
\$100K and	51.3	10.3	7.7	69.2	21.8%	9.0%	30.8	100
Chi square for total accuracy = 11.998 p= .017								

Table 2b								
Expected /Actual APR –by Experience								
	Accurate Responses			Accurate Total	Inaccurate Responses		Inaccurate Total	Grand Total
	Actual number given higher than 5.1%	Comment that it would be at least 5.1%	Don't know		Exactly 5.1% given	Number lower than 5.1% given		
Has a Home Equity Line of Credit or Home Equity Loan								
Yes	59.3%	7.7%	5.5%	72.5%	20.9%	6.6%	27.5%	100%
No	38.5%	9.9%	9.5%	57.9%	30.3%	11.8%	42.1%	100%
Chi square for total accuracy = 13.897 p=.008								

<p style="text-align: center;">Table 3a Awareness and Understanding of Home Equity Loans and Annual Percentage Rates (APR)</p>								
	1 Not at all	2	3	4	5 Very much	Not sure	Total	Mean
How well do you understand home equity loans?	19.1%	11.6%	22.3%	21.5%	22.3%	3.2%	100%	3.2
How well do you understand how the APR works	19.3%	15.0%	20.6%	20.0%	21.8%	3.3%	100%	3.1
How aware are you that APR stand for Annual Percentage Rate?	12.5%	4.7%	9.8%	15.5%	55.1%	2.5%	100%	4.0

Table 3b				
Confidence and Accuracy				
	Accurate interpretation of claim	Inaccurate interpretation of claim	T	p
How aware are you that APR stand for Annual Percentage Rate? (higher number indicates greater awareness)	3.33	2.96	3.042	.002
How well do you understand how the APR works? (higher number indicates greater understanding)	3.29	2.86	3.48	.001
How aware are you that APR stand for Annual Percentage Rate? (higher number indicates greater awareness)	4.25	3.7	4.61	.000

<p style="text-align: center;">Table 4 Expected /Actual APR –by Source</p>								
	Accurate Responses			Accurate Total	Inaccurate Responses		Inaccurate Total	Grand Total
Sponsor	Actual number given higher than 5.1%	Comment that it would be at least 5.1%	Don't know		Exactly 5.1% given	Number lower than 5.1% given		
Bank	40.5%	10.2%	9.1%	59.8%	28.5%	11.7%	40.2%	100%
Federal Credit Union	43.3%	8.9%	8.5%	60.7%	29.1%	10.3%	39.4%	100%
	Chi square for total accuracy = .036 p=.85							

Table 5
Logistic Regression Results

	B	S.E.	Wald	df	Sig.	Exp(B)
Understanding of home equity loans (5 point scale)	-.025	.115	.046	1	.831	.976
Understanding of APR (5 point scale)	.051	.122	.174	1	.676	1.052
Know what APR stand for (5 point scale)	.161	.093	2.965	1	.085	1.174
*Education – high school or less	-.404	.329	1.512	1	.219	.667
*Education – some college/college grad	.355	.293	1.471	1	.225	1.427
*Education – post grad	.302	.336	.807	1	.369	1.352
Ethnic (non-Hispanic Caucasian vs. others)	.545	.401	1.849	1	.174	1.724
Gender	.208	.224	.859	1	.354	1.231
Has a home equity loan/line	.567	.297	3.636	1	.057	1.763
*NU_Income_4	-.066	.280	.056	1	.813	.936
*NU_Income_1	-.411	.275	2.228	1	.136	.663
*NU_Income_2	.058	.308	.036	1	.850	1.060
Age	-.004	.007	.283	1	.594	.996
Constant	-.756	.592	1.627	1	.202	.470
* = dummy variable						

Discussion of Research Results

This study supports the findings of the signature study of Hastak and Murphy (2012), albeit in a different type of tensile advertisement (“as low as” price reduction versus “up to” cost savings) in that a substantial number of study participants misunderstood the extreme of the tensile offering to be the amount that all buyers would receive. Thus, it is entirely possible that the FTC would consider “as low as” claims to be as deceptive as “up to” claims.

However, our findings also show that not all consumers are misled by these advertisements, and that the propensity to misinterpret a claim is readily associated with individual characteristics.

To a larger degree, these results in the context of loans or related financial products could be said to reflect the general lack of consumer knowledge about credit rates. Our finding of a positive relationship between education, income and

experience reflects systematic findings of consumer understanding of credit interest rates in general (as concluded by Lee and Hogarth 1999). As opposed to simply misunderstanding advertising, some consumers may misunderstand credit interest rates.

Implications for Advertisers

While only a small number of studies have measured how accurately these ads are interpreted, one can reasonably expect these findings to hold up across a larger number of studies. As of this writing, the FTC has not clarified whether “up to” advertising in all contexts will be subject to the same standard as the energy savings claims addressed in the five consent orders involving window replacement ads. For that matter, there is some uncertainty as to the standard the FTC articulated in those cases: Must advertisers show that “all or almost all are likely” to achieve the maximum result or merely that the maximum result is “likely”? Presumably, these issues will be clarified through future FTC actions or actual FTC guidance. However, the logical extension is that when the time comes, most or all “as low as” advertising will be subject to the same standard as “up to” advertising.

Thus, advertisers who rely on tensile claims to stimulate customer response need to monitor FTC decisions, pronouncements and possible rule making, and adjust tactics as necessary. An obvious alternative to such advertising is the non-expandable approach (e.g. “Rates of 5.1%” as opposed to “Rates as low as 5.1%”). However, the practical reality is that it is much more difficult to use specific savings points when promoting more than a single item or when the amount of the benefit varies according to consumer differences (e.g. credit rating).

Another possible approach should restrictions be imposed would be to target claims to audiences based on their likelihood of correctly interpreting the offer. The FTC’s Policy Statement on Deception does state that when “the representation or practice affects or is directed primarily to a particular group, the Commission examines reasonableness from the perspective of that group.” This suggests that practitioners should understand these differences and recognize that any advertisements using a tensile claim might be seen as being deceptive for one audience and not for another. For example, at least in the case of financial products, current customers could be considered more likely to accurately understand a tensile offer than those who might be new to the market.

Contributions to the Literature, Limitations, and Directions for Future Research

This paper provides a modest addition to the understanding of consumer perceptions of advertisements that offer a potential range of benefits – in this case of a low interest rate on a loan. One of its strengths is the broad spectrum of respondents within the consumer panel from which study participants were drawn. These results are limited in several ways. The first is the use of online

media. Online is just one of many media channels in which advertisements with tensile claims are administered. Also, the study questions appeared at the end of long survey and respondent fatigue may well have been a factor, as indicated by the number of respondents who thought that the actual interest rate would be lower than the minimum rate specified in the ad. Also, the lowest socio-economic level of consumers was not represented in the panel (although their likelihood of obtaining a home equity loan is low.)

Additionally, subjective knowledge was measured rather than actual knowledge or experience with home equity loan products.

While there are many opportunities for further research into tensile advertisements, a broader perspective might include the issue of language. The number of residents in the United States for whom English was not or is not their primary language is large and increasing. It is easy to speculate about how consumers with less than average facility with English will interpret tensile advertisements differently than those with greater fluency.

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