

Testimonial/Endorsement Statement

TESTIFIER:

I.....(name of testifier)

of.....

.....(home address of testifier)

confirm that the advertisement for

.....(name of product or service)

in which I appear, truly and accurately represents my opinion/experience of the product.

Signature.....Occupation.....

Date.....

WITNESS:

Witness Name.....Occupation.....

I.....(name of witness)

of.....(name of advertiser/advertising agency)

hereby confirm that to the best of my knowledge and belief:

The above statements by.....(name of testifier)

are true and accurate.

Signature.....Date.....

CLEARCAST

Any expression of view, or statement of experience, of a real person (whether made by that person or quoted by somebody else) is regarded as a testimonial. Testimonials must be genuine, relevant to the present characteristics of the product and not likely to mislead.

General statements concerning, for example, experience of a product or service or the operation of a business, which are derived from statements and opinions of a number of people and reflect a general experience, are not normally regarded as testimonials.

Testimonials may be used as expressions of subjective opinion but not to make or imply factual claims which are not capable of being satisfactorily supported by evidence.

Testimonials should not be more than three years old and evidence of a change of circumstances brought to the attention of Clearcast at any time may constitute grounds for withdrawing approval of the advertising.

Testimonial or Playlet: Fact or Fiction?

Fictional playlets, in which the characters are clearly expressing, in dramatised form, the claims of the advertiser, are not regarded as testimonials. Such playlets may, however, cause problems if viewers or listeners might reasonably believe that the situation or persons depicted in the playlet are real.

Where there is some element in a creative treatment, e.g. a pseudo-documentary approach, which may give rise to uncertainty among viewers, it may be necessary to include some clarification, e.g. 'Based on a real event' or 'Reconstruction using actors'.

It is not possible to lay down hard-and-fast rules as to the kind of treatment which might create an impression of a testimonial, as this depends so much on the atmosphere of the commercial. Use of fantasy or farce is unlikely to cause any problem of this sort. The use of any of the following, however, may well give an appearance of reality to which the testimonial requirements would apply:

- (i) Persons who are identified, by name or otherwise, as private individuals, whose addresses are given or who are depicted against a realistic background of home, family, work, etc.
- (ii) Interview situations in which people, whether named or not, are invited to express opinions or report experiences to an interviewer or direct to camera or microphone, or are responding in an apparently spontaneous manner.
- (iii) Persons who are presented in a way which suggests that they are experts or have knowledge which would lend authority to their opinions.
- (iv) Celebrities endorsing the product or being described as users of the product.
- (v) Named real-life settings, e.g. the Savoy Hotel, Madame Tussaud's, the office of a named manufacturer.
- (vi) Testimonial letters (whether or not the writer's name is given).

Actors' Own Testimonies

Actors may not be used to stand-in for real people who have given testimony or to impersonate named individuals. They may, however, give their own genuine testimonies about products or services advertised. (There are special requirements relating to use of testimonials in advertising of medicines, see below.)

Unless the artists giving testimony are celebrities, they should be clearly identified as actors or models, as the case may be, e.g. 'Helen Smith, actress'. If this identification of their professional status is not included, viewers or listeners who recall the actor appearing in, say, a play or another commercial, may reasonably have doubts about the genuineness of the testimonial.

Children

Since many people regard formalised testimony by children as an inappropriate degree of commercial exploitation, children may not be used in this way. There will, however, normally be no objection to children as real persons making comments about matters in which they would have an obvious natural interest.

Medicines and Treatments

Section 11 of the Notes of Guidance (available at clearcast.co.uk) deals in detail with the presentation of advertisements for medicines, treatments and allied products and claims, as defined in Section 11 of the BCAP Code. In particular, however, in such advertisements:

- (i) no person well known in public life, sport or entertainment, etc., may act as a presenter for a medicine or treatment;
- (ii) no testimonial for a medicine or treatment by a person well-known in public life, sport, entertainment, etc., may be used;
- (iii) testimonials must be unsolicited; they must be from established users of the product. This does not rule out testimonials given in reply to a manufacturer's question (e.g. in market survey questionnaires), provided this is made clear in the advertisement itself.

Trade Approvals, Endorsements and Recommendations

(i) Endorsements and approvals

An advertiser may wish to feature in his advertising an endorsement by another trader, hoping to influence consumers because of that trader's authority or prestige. This is acceptable, provided the other trader is prepared to confirm that his endorsement or approval of the product reflects his genuine opinion of it.

(ii) Recommendations

The use of words such as 'recommend' is normally held, in the absence of any indication to the contrary, to denote an exclusive preference. The trader making the recommendation will therefore need to confirm that he considers the product in question to be superior to all others in the circumstances described and that it is the only such product which he recommends. Advertisements should not imply that a trader's endorsement is exclusive if this is not the case and words such as 'choose', which carry an implication of exclusivity, should be avoided if there is any likelihood of consumers being misled.

(iii) Endorsements and advertisers' own claims

References to a trade endorsement or recommendation should not be confused with the advertiser's own claims for the product. There should be no suggestion that a trader's endorsement relates to some specific characteristic of the product, if there is no evidence that this is the case.

It should also be borne in mind that a trader who endorses or recommends an advertiser's product may not make or imply on its behalf any claim which the advertiser himself is unable to make, for example because of inadequate supporting evidence.

Evidence

The following evidence should accompany the script:

- (i) A signed and witnessed confirmation by the testifier that the statement made by or about him or her in the advertisement and any supporting detail is true and accurately represents his or her opinion or experience, and (except where the advertisement clearly indicates otherwise) the opinion or experience to which his or her testimony relates was gained independently of any approach to him or her by the advertiser.
- (ii) A signed confirmation by the advertiser that to the best of their knowledge and belief the testimony given is genuine and that the requirements of sections 3.45 & 3.46 of the Notes of Guidance have been complied with.

(iii) The original or Photostat copy of any document which is quoted or referred to. Forms for completion by testifiers are available from Clearcast on request.