

Asia Practice

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China Imposes Largest Fine to Date for False Advertising

Chinese authorities have imposed a fine of approximately \$1 million US on consumer goods giant Proctor & Gamble (P&G) for false advertising. The penalty is the largest-ever fine for false advertising in China and demonstrates a desire by Chinese authorities to improve enforcement of consumer protection laws.

Background

P&G is a global leader in personal care products with a significant presence in China, the world's second-largest economy. Over the past several years, P&G has made significant investments in new facilities in China with the aim of outpacing its competitors and growing its share in the emerging Chinese market for personal care products. In China, P&G competes with rival Colgate-Palmolive and local brands Darlie and Yunnan Baiyao in the fast growing market for toothpaste.

However, the Shanghai Administrative Bureau of Industry and Commerce (the "Bureau") recently imposed a 6 million RMB fine on the large multi-national company for overstating the effects of its Crest toothpaste brand. According to the Bureau, a Crest television advertisement, which featured a popular Taiwanese celebrity, was digitally enhanced to portray whiter teeth after only one day of product use and was misleading to consumers.

Implications

P&G discontinued the advertisement in mid-2014. While the impact of this fine on Crest's market share in China is not yet known, analysts do not anticipate that it will have any significant long term effects on the company or its position in the Chinese market for personal care products. In response to the fine, P&G has asserted that it complies with Chinese laws and that

all of its products have been properly tested according to Chinese standards.

The fine will likely have a widespread impact on the behaviour of companies operating in China, particularly those relying on television advertisements describing or portraying the benefits of their products. In the past several years, a number of large multi-national companies have been reprimanded for misleading Chinese consumers but have avoided significant financial penalties. The actions of the Bureau indicate Chinese authorities will no longer ignore misleading advertisements concerning the effectiveness of consumer products and will now impose meaningful financial penalties on companies engaging in such behaviour.

Key Points for Canadian Companies

The P&G fine demonstrates a desire on the part of Chinese authorities to strengthen enforcement of its consumer protection laws. China has adopted a more aggressive approach to consumer protection, scrutinizing both foreign and local companies operating in a variety of industries and imposing increasingly large fines for inappropriate conduct impacting the interests of consumers. Canadian companies operating in China should be aware of these developments and ensure their practices, including those relating to sales and marketing, do not run afoul of Chinese rules and regulations.

For further information on operating in China, please contact any member of our Asia Practice Group.