A Further Empirical Investigation into the Semantic Meaning of Advertising Price References

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Introduction

Modern retailing, both traditional and online, is characterized by extensive use of price discounting. A challenge for retailers is to convey the value of discounted prices without appearing to deceive consumers. Several authors have recently noted that regulation in this area has increased (c.f. Sheridan; Scher; Avery ; and Chansky) and have cautioned retailers to be cautious in the use of comparative advertising claims. For example, Overstock.com recently lost a deceptive comparative pricing action brought in California Superior Court, Alameda County, by a group of district attorneys and was assessed $6.8 million in civil penalties. (*People v Overstock.com*, Case No. RG10-546833.)

For many years the Federal Trade Commission and state attorneys general challenged price advertising that used fictitious or rarely used "reference" prices, and issued guides on the use of reference pricing. However, since the mid-1990s the FTC and the states rarely challenged such claims. Recently, however, this gap has been filled by private class action lawsuits and other cases challenging deceptive reference pricing (Scher and Transky, 2014). Thus, retailers who may have become careless regarding the appropriate use of comparative prices need to be more alert to this emerging issue.

Comparative advertising techniques have been on academic research agendas for many years. A summary of comparative advertising issues in a special edition of the Journal of Public Policy and Marketing (Grewal,1998) noted that "Evidence indicates that comparative price advertising is a powerful advertising tool, with a strong opportunity for deception that requires careful management and monitoring." (p 257).

In a leading article on comparative price advertising Compeau (2004) documented the manner in which consumers interpret alternative price discount messages. This research examined how different semantic phrases evoked different meanings among respondents, specifically looking at variances in consumers' interpretations of three common phrases – "Compare At", "MSLP" (Manufacturer's Suggested List Price), and "Regular Price" - and also the degree to which each phrase evoked different meanings in different subjects. A total of 299 graduate and undergraduate students were shown a newspaper advertisement which contained a reference price of $59.99 and a sale price of $42.00. Three reference price phrases

(Compare At, MSLP, Regular Price) were used. Respondents, who each saw only one version of the ad, were asked to indicate which of the following options best defined the semantic reference phrase: The price at which the item usually or normally sells- an everyday price; The price I would have to pay for the product at most other stores; or A fictitious price that has been inflated to show you that they are giving you a discount.

The authors concluded that "Regular Price" was interpreted most consistently, and that there was far less consensus for "MSLP" and "Compare At". In addition, the proportion of respondents who felt that a reference price was fictitious ranged from 26% to 31%. However, the authors realized the limitations of using only students as subjects, for they also noted "Future research may want to consider a survey methodology to tap a much broader spectrum of consumers." (p 186). Thus, the purpose of our research is to extend Compeau's research to a more representative consumer population. The main research question we sought to answer was whether a broader range of consumers would give the same meanings to the phrases evaluated by Compeau and his fellow authors.

Literature review

The Compeau article provided a thorough review of relevant literature up to 2004, and we will not attempt to replicate it here.

Trifts (2013) have recently extended the work regarding the role of trust in retailer selection by demonstrating that shoppers internalize the act of providing competitor price information as a preliminary cue in establishing a retailer's trustworthiness. They concluded that their results suggest "... providing competitor information can be a powerful tool by which retailers can influence consumer preference by acting as a useful trust-building mechanism, especially under conditions in which the retailer's prices are not clearly superior to those of its competitors". (p 173). As in many similar studies, the subjects were undergraduate students.

Grewal (2014) investigated the impact on perceived product quality of the interaction of semantic cues ("Regular price" and "Compare At"), location of cue presentation (in store or at home), product consumption goal (hedonistic or utilitarian), motivation to process information (high or low) and companionship (shopping alone or with a friend). They conducted three studies using student subjects, and found that the effects of semantic cues depend on all of these independent variables. "As predicted, we found there was a semantic cue × location interaction when there was a utilitarian goal (but not a hedonic goal) and when there was low motivation to process information (but not high motivation to process)……We also find that when a consumer is shopping with a companion within store cues result in stronger quality perceptions than between store cues. The semantic cue × location interaction shows that when the semantic cue is encountered in an in-store setting, within store cues resulted in higher perceived quality. When the cue is encountered at home, between store cues resulted in higher evaluations than within store cues…" (p 202-203).

While Grewal (2012) is not directly relevant to understanding the meaning of the semantic cues as opposed to their impact on quality perceptions, we see this work as reinforcing the need for a studies with more representative subjects. For example, it is unlikely that most students, especially undergraduates, have undergone the changes in buying behavior brought about by the events of recent years. Perhaps the most important recent influencer of consumer price sensitivity has been the "Great Recession", which has caused consumers to be more price conscious and has motivated retailers to find ways to promise buyers the best value. Yet most undergraduates had little purchasing power or involvement in the marketing system during that period. In addition, technological developments now allow consumers to conduct their own price comparisons through the use of bots, price comparison websites, etc. to a much greater degree (Grewal, 2012).

Today, these issues are more important than ever. It is true that the FTC has not been active in this area in recent years, and that consumers have no private right of action under the *FTC Act* – that is, no right based on the act to file civil suits for deceptive price advertising. However, actions under state statutes are on the rise, especially in California. District attorneys and plaintiffs' class action lawyers there have challenged pricing practices at a variety of retailers including Overstock.com ("compare at" and "compare" pricing), Macy's/Bloomingdales ("compare at" pricing), Burlington Coat Factory ("compare" pricing), J. Crew ("valued at" pricing), T. J. Maxx ("compare at" pricing), Nordstrom Rack ("compare at" pricing), and Kohl's ("regular" or "original" pricing). Some cases have been dismissed, including an action against Neiman Marcus, but others have been more successful. The case against Overstock.com was resolved with a $6.8 million civil penalty, which is under appeal, and a New York case against Michael Kors (USA), Inc. over MSRP pricing was settled for $4.9 million in 2015. A California class action against J.C. Penny (aimed at false sale advertising) was settled for a payment of up to $50 million.

California is a particularly popular forum for the suits because of the pro-consumer language found in the *California Legal Remedies Act (CLRA)*, the *California Unfair Competition Law (UCL),* and the *California False Advertising Law (FAL)*. In addition, it is comparatively easy for California consumers to establish legal standing under these statutes. Under the UCL and FAL consumers need not show that they paid more than their purchases were worth or that they lost property or money; it is enough to allege that they would not have made the purchase but for the misrepresentation. *Hinojos v. Kohl's,* 718 F. 3d 1098 (Ninth Circuit, 2013). Under the CLRA consumers can sue provided that they suffered *any* damage, which includes opportunity costs, transaction costs and minor pecuniary damage. *Meyer v. Sprint Spectrum*, 200 P.3d 295, 299 (California Supreme Court, 2009).

Furthermore, the FTC could choose to step up its involvement in this area. In 2014, four members of Congress, concerned about some outlet stores' practice of selling lower quality goods made specifically for outlets, wrote FTC Chair Edith Ramirez asking the Commission to "use its authority to investigate deceptive and unfair marketing practices at outlet stores and punish offenders." The FTC is

already scheduled to review its *Guides against Deceptive Pricing* in 2017 (deferred from 2012).

Method

Three versions of a simple advertisement for a fictitious department store sale which advertised a wool sweater at a price of $24.99 were developed. The non-sale price was shown as $49.99 using one of the following three phrases:

- "Compare At" (i.e. "Compare at $49.99")
- "MSLP" Manufacturer's Suggested List Price (MSLP), sometimes referred to as Manufacturer's Suggested Retail Price[1]
- "Regular price"

Respondents saw only one of the phrases. They were then asked the following question:

Which of the three best describes the meaning of (compare at/ MSLP/regular price)?

a. The price at which the item usually or normally sells - an everyday price

b. The price I would have to pay for the product at most other stores

c. A fictitious price that has been inflated to show you that they are giving you a discount

In addition, half of each group of respondents was offered the choice of "Other/no opinion", which was not offered in the Compeau study. This was done to test whether the list of possible meanings was comprehensive enough to meet the definitional needs of all respondents.

An online consumer panel operated by Harris Interactive, a division of Nielsen, one of the industry leaders in consumer panel management (Hair et al, 2010) was used to collect 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. These 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). As is common in panel studies, respondents were not aware of the study's sponsor. Quality control procedures (such as embedded quality control questions and post-survey subjective analysis) were used to eliminate questionable survey responses. Post-fielding quality control measures reduced the number of usable completions to 601 from an initial 624. Survey participants represented a wide variety of demographics (see Table 1).

[1] "sometimes referred to as Manufacturer's Suggested Retail Price" added to original definition

Results

Table 2 on the following page shows the respondents' interpretations of the comparative price phrases and the impact of adding an "Other/no opinion". There was almost no use of the

Table 1 Selected demographic comparisons (age 18+)

	Online panel	Rochester MSA	US Population
Gender			
Men	33.1%	48.6%	49.2%
	67.9%	51.4%	50.8%
total	100.0%	100.0%	100.0%
Age			
18-34	21.1%	33.2%	26.9%
35-44	10.5%	13.5%	17.1%
45-54	16.4%	17.5%	18.9%
55-64	25.8%	16.5%	16.8%
65+	26.2%	19.3%	20.4%
Total	100.0%	100.0%	100.0%
Education			
High school grad or less	18.7%	38.0%	42.0%
Some college/Associates	36.2%	29.5%	28.8%
Four year degree	21.5%	18.2%	18.9%
Some grad school/degree	23.6%	14.2%	10.4%
Total	100.0%	100.0%	100.0%

Other/no opinion option, except when it came to "Regular price" where 8.4% of respondents chose it. The differences in responses were not statistically significant at the .05 or better level of confidence except with respect to "Regular price"...[2] Table 3 provides the direct comparison with the Compeau results.

[2] The table shows a full distribution of results and the chi-square test is for the full distribution with "0" used for the NA cell when "no opinion" was not offered. We also tested the significance using Fishers exact test with a 2 x 2 format (combining all of the non-No Opinion values together) and found a similar result to the full table.

Statistically significant differences (p=.002) were found for MSLP where far more of the current study's respondents chose "The price at which the item usually or normally sells - an everyday price" and far fewer "A fictitious price that has been inflated to show you that they are giving you a discount". The difference in interpretation of "Compare At" was also significant - far more chose "The price I would have to pay for the product at most other stores" than in the Compeau study.

Table 2 Interpretation of comparative price phrases

Comparative price phrase	"Regular price"		"MSLP"		"Compare at"	
	"No opinion" not offered as a choice (original study)	No opinion" offered as a choice	"No opinion" not offered as a choice (original study)	No opinion" offered as a choice	"No opinion" not offered as a choice (original study)	No opinion" offered as a choice
Respondent belief						
The price at which the item usually or normally sells - an everyday price	77.1%	69.5%	46.5%	37.9%	35.7%	25.7%
The price I would have to pay for the product at most other stores	4.8%	4.2%	11.1%	10.7%	41.8%	50.5%
A fictitious price that has been inflated to show you that they are giving you a discount	18.1%	17.9%	42.4%	46.6%	22.4%	22.8%
No Opinion/Other	NA	8.4%	NA	0%	NA	1.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Count	95	105	99	103	101	98
Chi square	9.276; p = .026		5.900; p = .117		3.393; p = .335	

Discussion

It is instructive to see such a low percentage of "Other/no opinion" responses when that choice was offered. This supports the three dimensions of the Compeau study: an everyday price; a price at another store; or a false price that is intended to convey a discount.[3]

Nevertheless, there may be other nuances not captured by the three semantic phrases because respondents felt that the ones offered were "close enough". While

[3] Grewal 2014 refers to within-store cues (comparing the sale price to another price offered by the same store) and between store cues (comparisons to prices of other stores)

Compeau conducted qualitative research with further women shoppers, apparently after the data was collected for the quantitative study, we also asked respondents to give an explanation of the sale price reference term they were exposed to during the data collection and prior to seeing the phrase used in the advertisement. While the analysis of those responses is still in progress, our preliminary assessment suggests there may indeed be other meaningful semantic meanings besides the three choices presented.

Table 3 Comparison with Compeau study

Comparative price phrase	"Regular price"		"MSLP"		"Compare at"	
	This study	Compeau	This study	Compeau	This study	Compeau
Respondent belief						
The price at which the item usually or normally sells - an everyday price	77.1%	70.0%	46.5%	48.0%	35.7%	50.0%
The price I would have to pay for the product at most other stores	4.8%	2.0%	11.1%	28.0%	41.8%	16.0%
A fictitious price that has been inflated to show you that they are giving you a discount	18.1%	28.0%	42.4%	24.0%	22.4%	34.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Count	95	99	99	108	101	92
Chi square	3.796; P = .149		12.569; P= .002		14.919; P=.001	

That "regular price" is the only semantic phrase garnering a relatively large number of "Other/no opinion" responses is puzzling for it suggests that this reference term is more ambiguous than the others. However, as later discussed, "Regular price" had the least dispersed choices (i.e. had the highest percentage centered on one interpretation). We note that the frequency of "Other/no opinion" responses (8.4%) is almost exactly the difference in outcomes between the 77.1% of respondents choosing the explanation of normal price (77.1%) when "Other/no opinion" was not an available choice and the percentage choosing normal price (69.5%) when "Other/no opinion" was offered (a difference of 7.6%). However, until further analysis is complete, we cannot suggest a plausible explanation.

The differences between our findings and the benchmark Compeau study with regard to semantic meanings are highly interesting. They were smallest in the use of "Regular Price" where the large majority of respondents viewed its meaning in a consistent manner in both studies. However, our study indicated that responses were

even more homogeneous than Compeau around the normal price explanation. These differences were statistically significant at $p<.15$.

Much stronger differences were obtained for the other semantic phrases. Our respondents were much more likely to perceive "MSLP" to be a fictitious price and less likely to perceive it as a price to be paid at other stores, although the modal meaning of both studies was the same (normal price). The higher percentage of fictitious price interpretations suggests less misunderstanding among potential buyers and therefore less impact, and less vulnerability to
deceptive practices claims, as the phrase would be less likely to influence actual behavior.

For "Compare At" there were even larger differences in responses between the subjects in the Compeau and our subjects ($p=.001$). Ours were much more likely to perceive this phrase to denote what most other stores would charge. The ambiguity is even more pronounced, since the net result is that our distribution is more widely spread over the three choices.

Thus, our study shows "MSLP" to be less ambiguous than "Compare At," while Compeau found the opposite.

Conclusions

This study both affirms and extends the benchmark of Compeau. While we found statistically significant differences between their results and ours when using a sample more representative of the adult population per their suggestion, we nevertheless agree that the use of any of these phrases, especially "MSLP" and "Compare At" can be problematic due to variations in semantic meaning. These variations can be interpreted as evidencing inaccurate information that influences purchasing behavior in a manner which reduces the perceived value to the consumer.

Retailers should find this information useful when choosing comparative advertising terms. In both studies, "Regular price" seems to be the least deceptive in the sense that it has a more common meaning than other terms. Retailers should consider using this term for both within store and between store comparisons. Modifiers could be added to make the meaning even clearer. For example, sale prices could be expressed as "Regular price in this store" or "Regular price at (store name or type)" for a within store expression. "Regular price at other stores" could be used for a comparison to prices at other stores. However, the downside to the use of Regular Price is that the percent who see it as "a fictitious price" is low, suggesting a higher proportion of potentially deceived consumers!

References

Avery, R., Cawley, J., Eisenberg, M., and Cantor, J. (2013) Raising Red Flags: The Change in Deceptive Advertising of Weight Loss Products After the Federal Trade Commission's 2003 Red Flag Initiative, *Journal of Public Policy and Marketing*, Vol.

32 (1) Spring, pp. 129-139

Branca v. Nordstrom, Inc., (S.D. Cal.) No. 14CV2062

California Legal Remedies Act (CLRA) (1970) http://thelemonlawcalifornia.com/consumer-law-legal-resources/consumers-legal-remedies-act/

California Unfair Competition Law (UCL) (1977) https://en.wikipedia.org/wiki/California_Unfair_Competition_Law

California False Advertising Law (FAL) (2004). http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=17001-18000&file=17500-17509

Chester v. The TJX Companies, Inc., (C.D. Cal.) No. 5:15-CV-01437

Chowning v. Kohl's Department Stores, Inc. (S.D. Cal.) No. 15CV1624

Compeau, L., Grewal, D., Chandrashekarn, L. (2002) Comparative Price Advertising: Believe It or Not, *The Journal of Consumer Affairs*, Vol. 36, No. 2

Compeau, L., Lindsey-Mullikin, J., Grewal, D., and Petty, R. (2004) Consumers' Interpretations of the Sematic Phrases Found in Reference Price Advertisements, *The Journal of Consumer Affairs*, Vol. 38, No. 1

D'Aversa v. J. Crew Group, Inc. (S.D. N.Y.) No. 1-16-CV-01590

Federal Trade Commission (April 6, 2012), FTC Announces Schedule for Reviewing Regulations (2012), FTC Press Release

Garrison, L., Hastak, M., Hogarth, J., Kleimann, S. and Levy, A. (2013) Designing Evidence-based Disclosures: A Case Study of Financial Privacy Notices, *Journal of Consumer Affairs*, 46.2 Summer, p. 204

Grewal, D., Roggeveen, A., Compeau, L., Levy, M., New Times (1998) New Technologies, New Consumers *Journal of Retailing, suppl. Pricing in a Global Marketplace* 88.1 (March 2012) 1-6. *Marketing*, Vol. 62, No. 2 (Apr), pp. 46-59

Hinojos v. Kohl's (2013), 718 F. 3d 1098 (Ninth Circuit).

Grewal, D., Monroe K.B., and Krishnan, R., (1998) The Effects of Price-Comparison Advertising on Buyers' Perceptions of Acquisition Value, Transaction Value, and Behavioral Intentions. *Journal of Marketing*, Vol. 62, No. 2 (Apr.), pp. 46-59

Grewal, D., Roggeveen, A, Lindsey-Mullikin, J., (2014) The Contingent Effects of Semantic Price Cues, *The Journal of Retailing 90* (2), pp. 198-205

Gattinella v. Michael Kors (USA), Inc. (S.D. N.Y.) No. 1:14-CV-05731

Haley v. Macy's, Inc. (N.D. Cal.) No. 4:15-CV-06033

Kopalle, P., Kannan, P., Boldt, L., and Arora, N. Pechman, C. (1996) Do Consumers Overgeneralize One-sided Comparative Price Claims, and Are More Stringent Regulations Needed? *Journal of Marketing Research*, Vol. XXXIII (May), pp. 150-162

Meyer v. Sprint Spectrum (2009), 200 P.3d 295, 299 California Supreme Court.

Pechman, C. and Silk, T. (2013), Policy and Research Related to Consumer Rebates: A Comprehensive View, *Journal of Public Policy and Marketing*, Vol. 32 (2) (Fall), pp. 255-270

People of the State of California v. Overstock.Com, Inc., (Superior Court of the State of California, Alameda County) No. RG10-546833, (February 5, 2014)

Price v. Burlington Coat Factory of California LLC (C.D. Cal.) No.2:15-CV-05005

Rubenstein v. The Neiman Marcus Group, LLC (Superior Court of the State of California, Los Angeles County) No. BC555010

Scher, I, and Chansky, E. Price (2014) Advertising Claims Make a Comeback – As Class Actions, *Greenberg Taurig Advertising, Marketing, and Promotion Law Advisory*, (September 5)

Sheridan, S., (2015) Let the Buyer and Retailer Beware of Pricing Practices *Law360,*http://www.law360.com/articles/642063/let-the-buyer-and-retailer-beware-of-pricing-practices, (April 15)

Trifts, V., Huang, L., and Haubl, G. (2013) Price vs. Nice? How Unfavorable Price Comparisons Help Retain Customers, *Journal of Marketing Theory and Practice*, 21.2 (Spring), pp. 163-178

Keywords: *price advertising, price discounts, reference prices, comparative prices, price law*

Relevance to Marketing Educators, Researchers and Practitioners: This paper is useful especially to practitioners seeking to avoid accusations of deceptive pricing.

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