CHAPTER 4
IMPLIED SUPERIORITY CLAIMS IN COMPARATIVE ADVERTISING

Implied superiority claims are typical in product categories where there are few, if any, differences between brands. A survey of advertising content in the 1980s reported that implied superiority claims were most frequently used in ads for over-the-counter health products and personal care items (Wyckham 1987). Not surprisingly, these product categories were also disproportionately represented in legal challenges (Preston 1989a, b; see Tables 2 and 3). As the number of parity products has continued to rise in these and other product categories, implied superiority claims have predominated in their advertisements (Barone and Miniard 1999).

Implied superiority claims have been treated as a special case of puffery because they often use exaggeration (e.g., “Nobody does it better than Brand X”). They have also been called “hybrid” claims because in implying superiority, a comparison is also implied (Wyckham 1987). The latter description seems more fitting than that of puffery. An implied superiority claim suggests to consumers an event where the various brands were measured or tested against each other. They assume a dominant product was identified and that factual evidence supports explicit or implied superiority claims (Harris 1989; see Sassoon Inc. v. Bristol-Myers, 1981). On the other hand, consumers understand that puffery has no basis in fact. Such claims are known to represent the exaggerated opinion of the advertiser, and hence tend to be discounted (Preston 1977; cf. Wright 1986; Friedman and Wright 1994). However, implied superiority claims in the form of puffery