

**25%**  
off your  
hydro bill



*Blakes*

## Advertising Standards Canada Review of the Fair Hydro Plan Ad

October 2, 2017

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*Blakes*

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# 1. ASC Process

- ASC is an industry self-regulatory body
  - Government of Ontario is a member
- ASC's mandate is to consider consumer complaints regarding ads that contravene the [Canadian Code of Advertising Standards](#)
- ASC oversees a complaints procedure designed to encourage advertisers to amend or withdraw non-compliant advertising

# 1. ASC Process (cont'd)



**ASC reviews** each consumer complaint against the Code.



ASC conducts a **preliminary evaluation** of the complaint.



If the complaint raises an issue, the advertiser is requested to provide a **written response**. If a Code issue remains, the complaint is forwarded to the Standards Council for adjudication.



If **Council determines** that the ads contravene the Code, Council asks the advertiser to withdraw or amend the ads.



The **complainant or advertiser can appeal** the decision.

# 1. ASC Process (cont'd)

- Standards Councils are comprised of ad executives and lawyers
- Council is chaired by Rafe Engle, ASC's long-time external legal council (central to the process)
- No right to appear before the Council – decision is based on a review of the ad, the complaint(s) and the advertiser's written representations
- Next Council hearing scheduled for October

# 1. ASC Process (cont'd)

- ASC has no power to order fines or prohibit ads
- Uses suasion and publicity to compel compliance
  - Publishes case reports, requires corrective notices for retail ads, advises exhibiting media and/or the Competition Bureau of an advertiser's non-adherence to a decision
- By way of recent example, in 2015, ASC worked with complainants concerning advertising denying climate change to prompt a Bureau inquiry

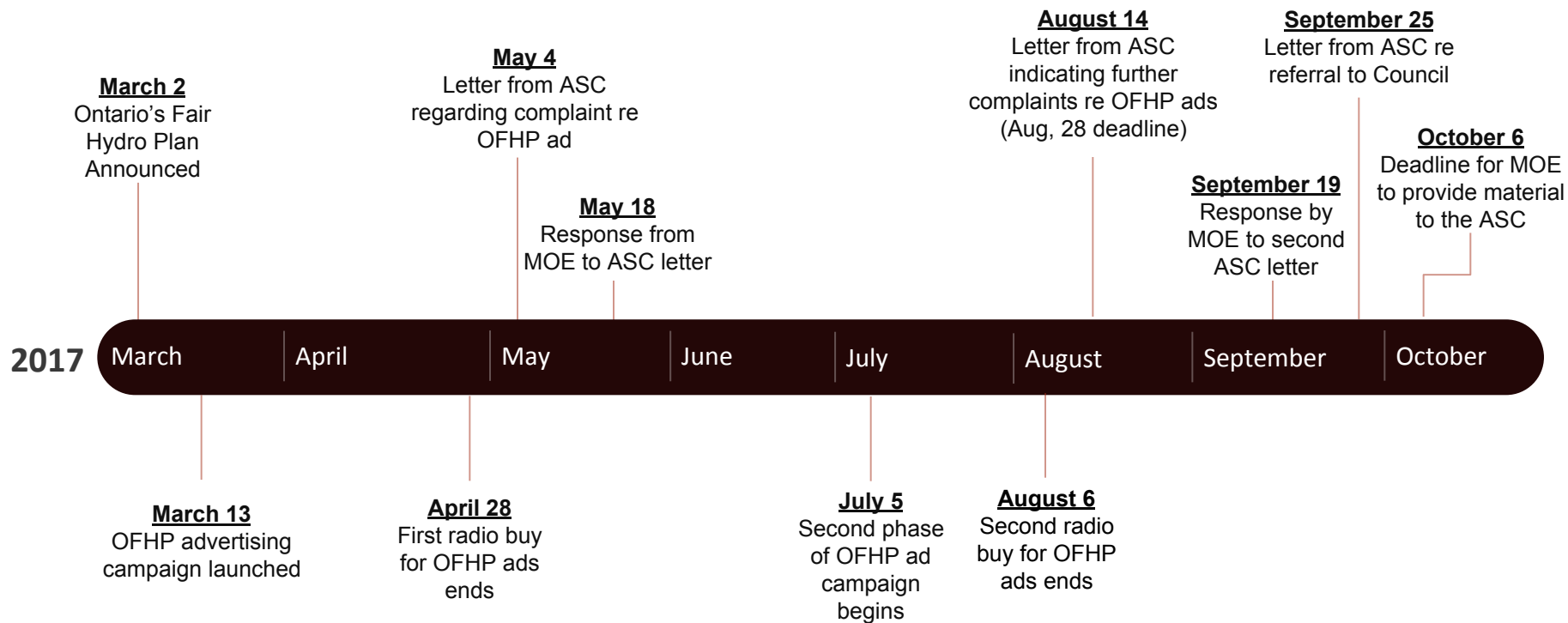
# 1. ASC Process (cont'd)

- 2016 statistics show approx. 60% of ads referred to Council found in breach of the *Code*

| COMPLAINTS SUMMARY                                          | 2016 COMPLAINTS | ADS/CASES |
|-------------------------------------------------------------|-----------------|-----------|
| Received by ASC                                             | 1639            | 1237      |
| Met <i>Code</i> acceptance criteria                         | 1108            | 856       |
| Administratively resolved by staff                          | 178             | 171       |
| Raised potential <i>Code</i> issues & forwarded to Councils | 86              | 51        |
| Upheld by Councils                                          | 44              | 30        |

Source: <http://www.adstandards.com/en/ConsumerComplaints/2016adComplaintsReport.pdf>

## 2. Timeline of Events to Date



### 3. Options to Resolve the Matter

- Successfully convince ASC staff not to refer the matter to Council
  - Need to show that the ad has been approved by government
  - May be difficult at this stage – further consultation with ASC required
- Resolve the complaint with ASC
  - Need to assess possible acceptability of amendments
  - Withdrawal of all advertising possible outcome to be explored
- Convince Council that the ad complies with the *Code*

## 4. Potential Outcomes

- ASC or Council rejects complaint – ads can continue
- MOE agrees with the ASC to amend or withdraw the ads – matter not sent to Council
- Council upholds the complaint – orders the ads withdrawn or amended without delay (could be as quickly as 10 days)
  - Ad will appear in a [case report](#) on the ASC's website
  - ASC may advise exhibiting media or the Bureau if MOE does not comply

## 5. Recommended Next Steps

- Attend call with ASC management to discuss status, identify source of concern and seek limited extension of time to respond
  - ASC likely to extend timelines if MOE willing to temporarily withdraw ads, including the webpage, until the matter is resolved
- MOE and Blakes to draft letter elaborating on extensiveness of government approvals for the ads
- MOE and Blakes to revise response explaining why the ads are not false or misleading – due by Oct. 6 (unless extension granted)