

The Identity of Brand Owners

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CLASS 46 (Trade Marks)

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THURSDAY, 14 APRIL 2016

Switzerland: no greenwashing, please



The self governing body of the Swiss commercial communications industry, the "[Lauterkeitskommission](#)", held that certain claims made by the [Swiss Gas Association](#) in connection with natural gas were unfair. [Greenpeace Switzerland](#) had lodged a [complaint](#) with the Lauterkeitskommission over the use of the statements "Natural gas pollutes the environment less than oil, wood chips, pellets and coal power", "The most effective climate protection is to replace oil with natural gas" and "Nature thanks you for purchasing a new natural gas heating".

The Lauterkeitskommission reminded everybody that the burden of proof for the veracity of factual statements in advertising lays with the advertiser. More interestingly, with reference to Article E3 of the [ICC Advertising and Marketing Communication Practice](#) (Consolidated ICC Code), it held that environmental superiority over competitors should be claimed only when a significant advantage could be demonstrated.

All three claims were clearly factual statements. The evidence adduced by the Gas Association was insufficient to prove the superiority of gas versus wood chips or pellets. With regards to the second claim, while natural gas may be superior to oil, there were other more environmentally beneficial heating systems, such as heat pumps. The absolute superiority of natural gas was therefore not proven. The last claim was held to be permissible because the Lauterkeitskommission held it to be "evident" that a new heating system would be superior to an old heating system (what about grey energy?).

The Lauterkeitskommission cannot impose sanctions, but most Swiss media companies will not publish advertising that is considered unfair by the Lauterkeitskommission, so in essence the decision has injunctive effect.

[Third chamber, decision of 20 January 2016 \(PDF, German\).](#)

Posted by: Mark Schweizer @ 13.24

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