

### § 228.3

(d) Additionally, products should not be described as being "first line" unless the products so described are the best products, exclusive of premium quality products embodying special features, of the manufacturer or brand name distributor applying such designation. [Guide 2]

#### § 228.3 Deceptive designations.

In the advertising or labeling of products, industry members should not use designations for grades of products they offer to the public:

(a) Which have the capacity to deceive purchasers into believing that such products are equal or superior to a better grade or grades of their products when such conclusion would be contrary to fact (for example, if the "first line" tire of a manufacturer is designated as "Standard," "High Standard," or "Deluxe High Standard," the tires of that manufacturer which are of lesser quality should not be designated or described as "Super Standard," "Supreme High Standard," "Super Deluxe High Standard," or "Premium"), or

(b) Which are otherwise false or misleading.

NOTE: When a manufacturer applies a designation to a product which falsely represents or implies the product is equal or superior in quality to its better grade or grades of products, it is responsible for any resulting deception whether it is a direct result of the designation or a result of the placing in the hands of others a means and instrumentality for the creation by them of a false and deceptive impression with respect to the comparative quality of products made by that manufacturer.

[Guide 3]

#### § 228.4 Original equipment.

Original equipment tires are understood to mean the same brand and quality tires used generally as original equipment on new current models of vehicles of domestic manufacture. A tire which was formerly but is not currently used as "Original Equipment," should not be described as "Original Equipment" without clear and conspicuous disclosure in close conjunction with the term, of the latest actual year such tire was used as "Original Equipment." [Guide 4]

### 16 CFR Ch. I (1-1-04 Edition)

#### § 228.5 Comparative quality and performance claims.

Representations and claims made by industry members that their products are superior in quality or performance to other products should not be made unless:

(a) The representation or claim is based on an actual test utilizing adequate and technically sound procedures of the performance of the advertised product and of the product with which it is compared; the test procedure, results of which are in writing and available for inspection; and

(b) The basis of the comparison is clearly stated and the comparison is based on identical conditions of use. Dangling comparatives should not be used.

(c) Claims or representations that one tire is comparable or identical to another should not be used unless the advertiser is able to establish that such tires are comparable not only as respects the molds in which the tires are made, but also as respects all significant materials used in their construction. [Guide 5]

#### § 228.6 Ply count, plies, ply rating.

A ply is a layer of rubberized fabric contained in the body of the tire and extending from one bead of the tire to the other bead of the tire. The consumer is interested in, and is entitled to know, certain information in regard to plies in tires. However, a great deal of terminology connected with plies which is utilized in advertising has the tendency to confuse and deceive the public and is accordingly inappropriate.

(a) It is improper to utilize any statement or depiction which denotes or implies that tires possess more plies than they in fact actually possess. Phrases such as "Super 6" or "Deluxe 8" as descriptive of tires of less than 6 or 8 plies, respectively, should not be used.

(b) The actual number of plies in a tire is not necessarily determinative of the ultimate strength, performance or quality of the product. Variations in the amount and type of fabric utilized in the ply and other construction features of the tire will determine the ultimate strength, performance or quality of the product. Through variations

in these construction aspects, a tire of a stated number of plies may be inferior in strength, quality, and performance to another tire of lesser actual ply count. Accordingly, it is improper to represent in advertising, or otherwise, that solely because a product has more plies than another, it is superior.

(c)(1) The expression "ply rating" as used in the trade is an index of tire strength. Each manufacturer, however, has his own system of computing "ply rating." Thus, a product of one industry member of a stated "ply rating" is not necessarily of the same strength as the product of another member with the identical rating. While the expression "ply rating" may have significance to industry members, in the absence of a publicized system of standardized ratings, the use of such expressions in connection with sales to the general public may be deceptive.

(2) To avoid deception, the expression "ply rated" or "ply rating" or any similar language should not be used unless said claim is based on actual tests utilizing adequate and technically sound procedures, the results of which are in writing and available for inspection. Further, certain disclosures must be made when such expressions are used in connection with consumer transactions.

(3) When ply rating is stated on the tire itself, it must be accompanied in immediate conjunction therewith, and in identical size letters, the disclosure of the actual ply count. In addition, there must be a tag or label attached to the tire or its packaging, of such permanency that it cannot easily be removed prior to sale to the consumer, which tag or label contains a clear and conspicuous disclosure:

(i) That there is no industrywide definition of ply rating; and

(ii) Of the basis of comparison of the claimed rating. (For example, "2-ply tire, 4-ply rating means this 2-ply tire is equivalent to our current or most recent 4-ply nylon cord tire.")

(4) When ply rating is used in advertising or in other sales or promotional materials, in addition to the disclosure of actual ply count as indicated, it must be accompanied by the disclosure:

(i) That there is no industrywide definition of ply rating; and

(ii) Of the basis of comparison of the claimed rating. (For example, "2-ply tire, 4-ply rating means this 2-ply tire is equivalent to our current or most recent 4-ply nylon cord tire.") [Guide 6]

#### § 228.7 Cord materials.

(a) The fabric that is utilized in the ply is known as the cord material. The use of a particular type of cord material may be determined by the use to which the tire will be placed. One type of cord material may provide one desired characteristic, but not be used because of other characteristics which may be unfavorable.

(b) The type of cord material utilized in a tire is not necessarily determinative of its ultimate quality, performance or strength. Through variations in the denier of the material, the amount to be used and other construction aspects of the tire, the ultimate quality, performance, and strength is determined.

(c) It is improper to represent in advertising, or otherwise, that solely because a particular type of cord material is utilized in the construction of a tire, it is superior to tires constructed with other types of cord material. Such advertising is deceptive for it creates that impression in the consumer's mind whereas in fact it does not take into consideration the other variable aspects of tire construction.

(d) When the type of cord material is referred to in advertising, it must be made clear that it is only the cord that is of the particular material and not the entire tire. For example, it would be improper to refer to a product as "Nylon Tire." The proper description is "Nylon Cord Tire." Similarly, when the manufacturer of the cord material is mentioned, it should be made clear that he did not manufacture the tire. For example, a tire should be described as "Brand X Nylon Cord Material" and not "Brand X Nylon Tire."

(e) Cord material should be identified by its generic name when referred to in advertising. [Guide 7]

#### § 228.8 "Change-Overs," "New Car Take Offs," etc.

Industry products should not be represented as "Change-Overs" or "New Car Take Offs" unless the products so