

The Ad Standard: Monthly Update

October 2026

Affordability remains front and center at the FTC. This month, the agency turned its attention to healthcare and gas costs. It also issued detailed guidance on price transparency for auto dealers that marketers in any industry might want to heed: the advertised price “must be the actual price that any consumer can walk in and pay,” with only government fees excluded. The FTC continues to consider how to combat scams and is seeking public comment on whether online platforms should help stop scammers who use those platforms to impersonate third parties by, for example, requiring the removal of confirmed impersonation scam ads.

A wave of class actions has been filed alleging “zero sugar” claims are false, following from a Seventh Circuit decision in which the FDA, at the court’s request, explained that although it had announced it would exercise enforcement discretion on whether allulose must be counted as a sugar on product labels, allulose does in fact meet its definition of a “sugar.” The takeaway: an agency’s promised enforcement discretion is no shield from lawsuits alleging that a claim is, nonetheless, misleading.

At NAD, “#1” and market-leadership claims remain a magnet for competitor challenges. And with consumers keeping a close eye on their wallets, it is no surprise that NAD is seeing more challenges to pricing claims in industries beyond telecom.

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FTC Focus

FTC Enforcement Activity

1. The FTC, joined by Utah and Nevada, sued contact lens retailer Lens.com Inc., its owner, and an affiliated entity, Speed Commerce LLC, alleging the company advertised low prices for contact lenses but then charged consumers higher prices through mandatory “Taxes & fees” charges without clear and conspicuous disclosure to consumers. The joint action alleges that defendants violated the FTC Act, ROSCA, and the Gramm-Leach-Bliley Act, among other statutes. Christopher Mufarrige, Director of the FTC’s Bureau of Consumer Protection, noted that the joint action underscores the agency’s commitment to lowering healthcare costs for consumers by stopping deceptive business practices that raise prices and harm Americans. According to the complaint, Lens.com also uses deceptive pricing practices in connection with its “AutoRefill” subscription plan, which is a negative-option plan that obscures the total price, automatically charges consumers for recurring shipments of contact lenses, and prevents comparison shopping. Lens.com also allegedly fails to clearly and conspicuously disclose how to cancel the AutoRefill subscription and the cancellation deadline to avoid incurring charges for a future shipment.

[FTC, States Sue Lens.com for Misrepresenting the Price of Contact Lenses in Search Ads and on Its Website | Federal Trade Commission](#)

2. Under a proposed order, marking the largest monetary recovery obtained in an FTC action against a multilevel marketing company, Amway Corp. and two of its affiliates will pay \$225 million to resolve FTC and state of Washington allegations that they used unfair and deceptive tactics to recruit individuals to its direct selling and multilevel marketing opportunity. The companies allegedly recruit individuals as salespeople to sell consumer products with misrepresentations about likely earnings (*i.e.*, by replacing their full-time job or retiring early), pressure recruits to buy Amway products that are difficult to sell, and instruct them to falsely report sales that they did not, in fact, make, to create the appearance that the opportunity revolves around selling products rather than attempting to recruit new salespeople to purchase Amway products. The two Amway affiliates allegedly recruit individuals to join Amway and sell them “essential” training materials and services.

[FTC Takes Historic Action Against Multilevel Marketing Operator Amway for Unfair and Deceptive Business Practices | Federal Trade Commission](#)

3. FleetCor Technologies Inc., now known as Corpay Inc., and its CEO will pay \$100 million to settle FTC allegations that the company imposed unauthorized fees on tens of thousands of customers, mainly small businesses, in connection with their use of fuel cards it falsely promised would save them money. FleetCor additionally charged late fees to customers who had either paid on time or were prevented by FleetCor from paying on time and further misrepresented the gas savings, fraud-control features, and fees associated with the fuel cards. According to the complaint, FleetCor waited several billing cycles before charging many fees, making the fees less noticeable to consumers. It also used invoices that did not disclose any fees, requiring customers to proactively view other account management reports, which in turn obscured many fees or did not list them at all.

[FleetCor Agrees to Pay \\$100 Million to Resolve Administrative Action After Federal Court Finds that It Violated the FTC Act by Charging Unauthorized Fees | Federal Trade Commission](#)

FTC Activity on Impersonation Scams

1. The FTC is seeking public comment on whether to update its Rule on Impersonation of Government and Businesses or take other action to prevent online platforms from engaging in ad-optimization practices that may be furthering impersonation scams. The Advance Notice of Proposed Rulemaking notes that impersonation scams have been amplified by search engines, social media, and other digital marketplace platforms that profit from optimizing online ads for third parties, regardless of whether the third parties are legitimate and asks whether platforms should be required to take steps to prevent impersonation ads from reaching consumers.

[FTC Seeks Public Comment on Whether to Update Rule on Impersonation of Government and Businesses to Address Platforms' Role in Promoting Impersonation Scams | Federal Trade Commission](#)

FTC Guidance for Auto Dealers on Price Transparency

1. The Staff of the FTC has published [an FAQ](#) on price transparency to help auto dealers comply with the FTC Act, which underlines the importance of price transparency as an FTC enforcement priority. The guidance reiterates that the advertised price of a vehicle must be the actual price that any consumer can pay, excluding only charges that the government requires. The FAQ provides guidance on several topics, including how to handle document fees, rebates, discounts, price negotiations and how to communicate prices transparently across different media. This development follows warning letters sent earlier this year to nearly 100 auto groups concerning price transparency.

[FTC Publishes Price Transparency FAQs for Auto Dealers | Federal Trade Commission](#)

Class Actions

Allulose Class Actions

Trader Joe's Co. has been sued in two separate putative class actions alleging that it misleads consumers by labeling its No Sugar Added Dark Chocolate Chips as containing "No Added Sugar," and its Sweet & Sour Gummy Worms Candies as containing "og sugar per serving" while both products contain allulose, which the complaints assert qualifies as a sugar under federal labeling standards. Both suits assert violations of various state consumer protection statutes, including New York and Illinois, and the Illinois Consumer Fraud and Deceptive Business Practices Act.

Alexander v. Trader Joe's Co., No. 1:26-cv-11329 (N.D. Ill. Sept. 16, 2026)

Parker v. Trader Joe's Co., No. 1:26-cv-11360 (N.D. Ill. Sept. 16, 2026)

Magic Spoon Inc. has been sued in a putative class action alleging that it falsely and misleadingly markets the various flavors of its Magic Spoon Protein Cereal, as containing "og Total Sugars," "og Added Sugar" and "No Added Sugar" because they, in fact, contain allulose. Plaintiff asserts violations of various state consumer protection statutes, including New York and Illinois, and the Illinois Consumer Fraud and Deceptive Business Practices Act.

Royal v. Magic Spoon Inc., No. 1:26-cv-10993 (N.D. Ill. Sept. 10, 2026)

Haleon US Holdings LLC was sued in a putative class action alleging that it falsely advertises its Emergen-C Zero Sugar Vitamin C Immune Support Gummies as containing “Zero Sugar” because the dietary supplement product, in fact, contains allulose. Plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Albrigo v. Haleon US Holdings LLC, No. 3:26-cv-05279 (S.D. Cal. Sept. 13, 2026)

Conagra Brands, Inc. was sued in a putative class action alleging that it falsely and misleadingly markets its Duncan Hines Keto Friendly baking mixes as containing “og ADDED SUGAR PER SERVING” because the products, in fact, contain allulose. Plaintiff asserts violations of New York General Business Law Sections 349 and 350 and dozens of state consumer-protection statutes.

Sanderson v. Conagra Brands, Inc., No. 1:26-cv-11420 (N.D. Ill. Sept. 19, 2026)

Nature’s Way Products, LLC was sued in a putative class action alleging that it falsely advertises its Nature’s Way Alive! Zero Sugar Women’s Multivitamin Gummy products as “Sugar Free,” when they, in fact, contain allulose. Plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Read v. Nature’s Way Prods., LLC, No. 2:26-cv-10580 (C.D. Cal. Sept. 17, 2026)

“Naturally Flavored” and “No Artificial Flavors” Claims

Candy company SmartSweets Inc. was sued in a putative class action alleging that it falsely and misleadingly markets various of its candy products as “Naturally Flavored” and containing “No Artificial Flavors” because the products, in fact, contain citric acid that is synthetically derived. Plaintiff asserts violations of New York General Business Law Sections 349 and 350.

Decker v. SmartSweets Inc., No. 1:26-cv-06009 (E.D.N.Y. Sept. 28, 2026)

Immunity Boost Claims

Vive Organic, Inc. was sued in a putative class action alleging that it falsely and misleadingly markets its “Immunity Boost” wellness shot products as having boosting effects on the immune system. The complaint alleges that this is false and unsubstantiated, because no food or dietary supplement can “boost” one’s immune system and that Vive has no medical evidence to substantiate this representation despite its representation that the products are formulated by doctors. Plaintiff asserts violations of New York General Business Law Sections 349 and 350.

Briceno v. Vive Organic, Inc., No. 1:26-cv-08431 (S.D.N.Y. Sept. 25, 2026)

Food Safety and Quality Claims

Berry producer Driscoll’s, Inc. was sued in a putative class action alleging that it represents that its conventional strawberries are produced “subject to rigorous food safety and quality standards” and ran an environmentally friendly campaign that greenwashed its true farming and manufacturing practices, while failing to disclose the presence, risk of,

and/or the use of persistent, fluorinated pesticide compounds associated with so-called “forever chemicals” and PFAS-related compounds. Plaintiff asserts violations of New York General Business Law Sections 349 and 350.

Farley v. Driscoll’s, Inc., No. 2:26-cv-05950 (E.D.N.Y. Sept. 24, 2026)

Junk Fee Class Actions

Aftership Inc., which offers shipping-related services to e-commerce retailers, was sued in a putative class action alleging that e-commerce retailers working with Aftership make false pricing representations to consumers (free or flat rate shipping) because the retailers surreptitiously add junk fees to consumers’ purchases, including Aftership’s so-called “Aftership Protection” fee. The complaint alleges that Aftership’s widget automatically adds the fee, which is made to appear mandatory at a late stage of the checkout and forces consumers to take affirmative action to reject the fee. Plaintiff asserts violations of the Maryland Consumer Protection Act.

Leonard v. Aftership Inc., No. 8:26-cv-03630 (D. Md. Sept. 14, 2026)

Element Vape was sued in a putative class action alleging that it falsely advertises the price of its retail items, along with an advertisement for either free or paid shipping dependent on the dollar value of items purchased because Element Vape surreptitiously and automatically adds junk fees to consumer purchases on top of the free or paid shipping in the form of a so-called “Route Package Protection Fee.” Plaintiffs assert violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Eck-London v. Element Vape, No. 26ST-cv-30788 (Cal. Super. Ct. Sept. 29, 2026)

Home Equity Sharing Agreements Class Action

Unison Agreement Corp. and its affiliates have been sued in a putative class action alleging that their “home equity sharing agreements,” which appear to operate like reverse mortgages, are, in fact, residential mortgage loans and high-cost home loans that “skirt lending and mortgage laws designed to protect consumers and homeowners from usurious terms.” Among other things, the complaint alleges that defendants misrepresent that the financial product is not a loan or a debt, misrepresent that there is no interest, misrepresent their relationship to homeowners, and hide the magnitude of homeowners’ repayment obligations. Plaintiffs assert violations of North Carolina’s Unfair and Deceptive Trade Practices Act.

Petty v. Unison Agreement Corp., No. 3:26-cv-00749 (W.D.N.C. Sept. 18, 2026)

“Mini LED” Television Claims

Samsung Electronics America, Inc., was sued in a putative class action alleging that it falsely advertises its “M Series” televisions as “Mini LED” televisions in their product name, in product photos, and by stating that “many tiny LEDs” deliver “3X brighter highlights,” “2X deeper blacks,” “Mini LED precision,” “exceptional brightness and contrast,” and “Supreme Mini LED Dimming” while the M Series televisions are not in fact Mini LED televisions, do not contain Mini

LED technology, and cannot deliver the picture quality advertised. Plaintiff asserts violations of California's Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Flores v. Samsung Electronics Am., Inc., No. 2:26-cv-12502 (D.N.J. Sept. 22, 2026)

Sleep Tracking Claims

Oura Inc. and Oura Health OY d/b/a Ouraring Inc. were sued in a putative class action alleging that they falsely represent that their Oura Ring 5, Oura Ring 4, and Oura Ring 4 Ceramic wearable devices had the ability to accurately track the quality and stages of users' sleep. The complaint alleges that the devices lack sensors that measure brain waves, eye movements, and muscle activity, which track sleep stages. Plaintiff asserts violations of California's Consumer Legal Remedies Act and Unfair Competition Law and New York General Business Law Section 349.

Joseph v. Oura Inc., No. 3:26-cv-10801 (N.D. Cal. Sept. 22, 2026)

Dismissal Denied

A federal district court denied dismissal of claims in a putative class action alleging that probiotic soda manufacturer Cove Drinks, Inc. falsely represented that its products have "No Artificial Sweeteners" because they contain the synthetic sweetener erythritol. Noting that claims under California's Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law are governed by the "reasonable consumer" standard, the court denied dismissal finding that plaintiff adequately alleged the claims. The court noted that the complaint alleges that the soda purchased contains 10 grams of erythritol and uses it as a sweetener, and further alleges that the erythritol is commercially manufactured through industrial fermentation and multi-step processing, and, therefore, it is a "synthetic sweetener." The court further rejected Cove's request for judicial notice of documents from the FDA and the National Cancer Institute that they do not consider erythritol to be an artificial sweetener, stating that "[w]hether erythritol actually is an artificial sweetener is a question of fact that the Court cannot decide at the motion to dismiss stage."

Williams v. Cove Drinks, Inc., No. 26-cv-03374, 2026 U.S. Dist. LEXIS 220973 (S.D. Cal. Sept. 28, 2026)

A federal district court denied dismissal of claims in a putative class action alleging that Kraft Heinz Foods Co. falsely and deceptively labels its Philadelphia Cheesecake Crumble dessert products as containing "No Artificial Preservatives" when they, in fact, contain artificial lactic acid as a preservative. As to the alleged violations of California, Illinois, and Nevada state consumer protection laws, which all require a plaintiff to allege that the ad misleads a "reasonable consumer," the court concluded that plaintiffs plausibly alleged that lactic acid is "artificial" and that a reasonable person would be misled by the statement "no artificial preservatives" if lactic acid is artificial when created through a manufactured process. The court pointed out that plaintiffs alleged that the lactic acid is produced through a manufactured process that includes two synthetic reactions. The court noted that whether the lactic acid is "artificial," is a factual determination that is inappropriate to conclusively determine on a motion to dismiss.

Daly v. Kraft Heinz Foods Co., No. 25-cv-07185, 2026 U.S. Dist. LEXIS 217377 (N.D. Ill. Sept. 24, 2026)

Dismissal Granted

A federal district court dismissed a putative class action alleging violations of California’s Unfair Competition Law and False Advertising Law against Google, LLC and Alphabet, which was brought after the plaintiff lost money from a fraudulent third-party app that he downloaded from the Google Play Store and claimed that he relied on Google’s statements that the third-party apps available are “legitimate, safe, and secure” and “can be downloaded with confidence because of Google’s vetting process and security standards.” The court held that plaintiff’s unfair competition and false advertising claims are barred by Section 230 of the Communications Decency Act, which provides that, “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” The court explained that even where a litigant seeks to hold an interactive computer service liable for its own statements, a general statement of a company’s content moderation policy is not a specific promise, but a mere description of its moderation policy, and thus protected from liability under § 230. The court explained that this is so because where a litigant relies on general statements of content moderation policy rather than specific, enforceable promises, the duty that the litigant seeks to impose on the defendant involves precisely the kind of content moderation regulation that Section 230 protects from liability, noting that plaintiff merely challenged general statements of Google’s content moderation policy rather than specific promises.

Hemry v. Google, LLC, No. 26-cv-01611, 2026 U.S. Dist. LEXIS 221086 (N.D. Cal. Sept. 28, 2026)

A federal district court dismissed a putative class action alleging that Hershey’s seasonal Reese’s Peanut Butter Pumpkins are deceptively and misleadingly marketed because plaintiffs believed the plain chocolates would look like the image shown on the front of the packaging, which shows the chocolates with “cool and beautiful carved-out designs” that look like jack o’ lanterns. The court pointed out that the original complaint was dismissed because plaintiffs failed to sufficiently allege a concrete injury, as they failed to allege that the products were defective, worthless, unfit for consumption, did not taste as expected, or were otherwise so flawed as to render them worthless. As to plaintiffs’ new allegations that they purchased the products “for the novelty/party-display value of the depicted faces, not merely for generic chocolate-and-peanut-butter candy,” the court labeled the allegations conclusory. The court found that despite plaintiffs’ subjective expectations, they still failed to allege that the products were defective, worthless, or that they lost all economic value because of the absence of the decorative carvings. The court further noted that the packaging includes the disclaimer—“DECORATING SUGGESTION”—and the product, although not carved, does have a novel pumpkin shape. Stating that plaintiffs’ “only injury is their subjective disappointment,” the court concluded that the allegations were not enough to plausibly allege a concrete injury for purposes of Article III standing.

Vidal v. The Hershey Co., No. 24-60831, 2026 U.S. Dist. LEXIS 209372 (S.D. Fla. Sept. 16, 2026)

A federal district court dismissed a putative class action alleging that liquor company Diageo North America, Inc. violated New York General Business Law Sections 349 and 350 and other state consumer protection statutes by falsely representing that both its Casamigos and Don Julio tequilas are “100% de Agave,” and “100% BLUE WEBER AGAVE” when they are not. As to the threshold issue of standing, plaintiffs argued that they sufficiently pleaded that they were injured by pleading that there were widespread and systemic adulterations in defendant’s tequila. However, the court concluded that plaintiffs failed to allege widespread and systemic adulterations. The court explained that while plaintiffs did plead that news reporting and industry advocates warned that tequila products were adulterated, that plaintiffs did not allege that any of this news reporting pertained to defendant specifically and, therefore, it did not support the allegation that the products’ adulterations were systemic and widespread. The court also disagreed that plaintiffs’ laboratory testing showed widespread and systemic adulterations because the pleadings did not establish either a temporal or geographic link between plaintiffs’ purchased products and the laboratory testing, noting that plaintiffs tested only five samples and did not plead that the samples were taken from a store that plaintiffs frequented. The court concluded that, therefore,

plaintiffs failed to establish key facts that would allow the court to extrapolate the testing results broadly to either the products they purchased or all purchasers.

Pusateri v. Diageo N.A., Inc., No. 25-CV-02482, 2026 U.S. Dist. LEXIS 224425 (E.D.N.Y. Sept. 30, 2026)

In an unpublished decision, a federal district court dismissed without prejudice a putative class action alleging that Able C&C US, Inc. and Able C&C Co. Ltd. deceptively labeled and advertised four sunscreen products as “waterproof,” “sweatproof,” and that they “block” all “UV rays ‘despite contact with water and sweat’” because all sunscreens eventually wash off in the water. The class action asserted violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law and New York General Business Law Sections 349 and 350, among other state consumer protection statutes. The court explained that although the products allegedly did not conform to their waterproof and sun-blocking labeling, they still functioned as sunscreen. As to the allegation that the products were allegedly illegally labeled as “waterproof” and sun-blocking, which allowed defendants “to label and advertise the Products as superior to other sunscreens on the market” and charge more, the court stated that plaintiffs’ examples showing the products’ packaging and websites, however, do not appear to show that defendants marketed or labeled the products as superior and that plaintiffs failed to allege any details regarding the price premium that waterproof sunscreen apparently commands over non-waterproof or partially waterproof sunscreen. The court stated that it “cannot make the inferential leap from misrepresentation to economic injury based on mere speculation.”

Bui v. Able C&C US, Inc., No. 24-1157, 2026 U.S. Dist. LEXIS 221771 (D.N.J. Sept. 29, 2026)

NAD Focus

Market Leader and #1 Claims

In a challenge brought by competitor Owlet Baby Care, Inc., NAD recommended that baby monitor manufacturer Udisense, Inc. (Nanit) discontinue or modify claims that its product was the “most loved,” “internet’s favorite,” “most awarded,” and the “smartest” baby monitor, as well as other health and safety, and parental sleep claims for its Nanit Smart Video Baby Monitor. As to claims that Nanit products are the “most loved,” “#1 most loved,” and “internet’s favorite” baby monitors, NAD determined that Nanit did not provide reliable evidence that was representative of the marketplace as a whole and recommended that the claims be discontinued. NAD also recommended that Nanit’s “most awarded” baby monitor claims should be discontinued because it is unclear what kind of “awards” are being referenced and because Nanit relied on third-party awards with potentially varying standards and rigor. After assessing whether Nanit’s proprietary tracking capabilities, algorithmic insights, and AI features justified a comparative superiority message over competing smart monitors, NAD recommended that Nanit discontinue its “smartest baby monitor on the market” claims because Nanit failed to provide adequate substantiation. As to claims promising quantified sleep benefits for parents, NAD found that the evidence was not a good fit for specific and quantified parental sleep claims. Thus, NAD recommended that Nanit discontinue the claims that Nanit parents get an extra “36 nights of sleep per year” and “may get more sleep.”

Udisense, Inc. (Nanit Smart Video Baby Monitor), Report #7558, *NAD/CARU Case Reports* (Aug. 2026)

In a challenge brought by competitor Sonova USA Inc., NAD recommended that Starkey Laboratories, Inc. modify or discontinue certain claims for its Omega AI prescription hearing aid, including certain claims concerning speech

intelligibility, spatial awareness, competitive performance, and “better hearing all around.” As to Starkey’s “the leader in hearing healthcare” claim, NAD determined that the evidence submitted may support a claim that Starkey is “a” leader in hearing healthcare but did not support the broader claim that Starkey is “the” leader. In support of its claim that Omega AI “delivers better hearing all around,” Starkey’s study found that, among participants who expressed a preference, 94% preferred Omega AI for directionality and 96% preferred Omega AI for speech clarity, but 52% and 42% of participants, respectively, expressed no preference. However, noting its precedent that unqualified preference claims should not be made when 20% or more of respondents express no preference, NAD recommended that Starkey discontinue the claim or modify it to clearly and conspicuously disclose that the 94% or 96% results are limited to “those who expressed a preference” and that the preference was as compared to Starkey’s prior technology. Notably, NAD also determined that AI testing to support advertising claims is an emerging area with potential benefits but emphasized that testing must be properly validated for the specific claims being supported, particularly when claims convey real-world consumer benefits.

Starkey Laboratories, Inc. (Omega AI Hearing Aid), Report #7566, *NAD/CARU Case Reports* (Sept. 2026)

In a challenge brought by competitor eosera, inc., NAD recommended that Lipo Flavonoid LLC discontinue or modify certain express and implied claims for its Earwax Cleansing Kit & Aid Drops regarding product efficacy, safety, and physician recommendations. As to the challenged “#1 ENT Doctor Recommended” claim appearing on packaging and Amazon, eosera argued that the recommendations were for a different Lipo product and that Lipo’s Kit did not exist in 2024 when Lipo’s otolaryngologist survey was conducted. NAD determined that, in the context of Lipo’s packaging, the claim communicates that this specific product is #1 recommended. NAD, therefore, recommended that Lipo modify its “#1 ENT Doctor Recommended” claim to avoid conveying that the claim applies to the Earwax Cleansing Kit & Aid Drops. As to Lipo’s advertising that its solution “dissolves earwax in as little as three minutes” and other efficacy claims, NAD found that Lipo’s in vitro tests, showing substantial dissolution by three minutes, were not conducted under consumer-relevant conditions and recommended that Lipo discontinue the challenged speed-to-dissolution claims and related visualization. NAD also recommended that Lipo discontinue its “clinically tested formula” claim because, in context, consumers would reasonably understand “clinically tested” to refer to efficacy, not safety, as the claims appear alongside claims about dissolving earwax, speed, and effective ear cleaning.

Lipo Flavonoid LLC (Earwax Cleansing Kit & Aid Drops), Report #7581, *NAD/CARU Case Reports* (Sept. 2026)

Internet Service Claims

In a competitor challenge brought by home internet provider Charter Communications, NAD determined that T-Mobile US, Inc. provided support for certain comparative claims regarding its T-Mobile Fiber (“T-Fiber”). As to T-Mobile’s ads encouraging consumers to “Break free from big cable contracts” and offering to pay early termination fees, NAD determined that the headline, viewed together with the comparison to cable internet, reasonably conveys that major cable internet providers generally, and Spectrum in particular, require contracts from which consumers need to be freed and impose early termination fees, a message it found was not supported. NAD recommended that T-Mobile modify the claim. As to the claims that T-Fiber provides “up to gigabit upload and download speeds,” while cable internet has “uploads slower than downloads,” and that “cable internet often has slower upload speeds,” and “with fiber internet, you get significantly more uploading power than with most cable internet options,” NAD determined that the speed comparison claims are supported as qualified descriptions of traditional cable internet generally and that the claim that fiber provides “significantly more uploading power than most cable internet options” is supported by the evidence. NAD determined the advertising with claims that T-Fiber experiences “no slow down during peak hours,” while cable internet “can slow down during peak hours due to shared bandwidth” reasonably conveys the message that users of Spectrum’s traditional cable internet service can experience some reduction in performance during peak periods but does not convey the message that Spectrum customers will always experience a material slowdown or that Spectrum Internet becomes unreliable during

peak periods. Thus, NAD determined the qualified statement that cable internet “can” slow down during peak hours is supported and found the claim that T-Fiber experiences “no slow down during peak hours” was supported.

T-Mobile US, Inc. (T-Mobile Fiber Internet Service), Report #7565, *NAD/CARU Case Reports* (Aug. 2026)

Health Claims

In a monitoring inquiry, NAD recommended that consumer genetics company Nucleus Genomics, Inc. modify or discontinue certain express and implied claims for its Nucleus IVF+ service. At issue was an Instagram video and a slideshow on the Nucleus website, which opens with, “Now you can see your future child’s health, traits, and potential—before pregnancy even begins,” and presents five embryos that “all look the same,” leaving viewers “guessing” until a doctor taps a button and “the uncertainty lifts,” allowing them to choose a path “with that clarity.” The slideshow includes a “Compare your embryos” chart that assigns each of the five embryos specific values for cancer, type 2 diabetes, and autism spectrum disorder risk, eye and hair color, height, and IQ. The Instagram video features Nucleus’s founder asking a woman whether she would want her baby to be “taller” or “smarter,” and, referencing “six embryos, one of them is the smartest,” asking whether she would pick that one. NAD recommended that Nucleus modify its advertising to avoid conveying the unsupported message that IVF+ enables future parents to accurately compare the relative likelihood that each embryo will develop various conditions such as breast cancer, type 2 diabetes, and autism spectrum disorder. NAD found that Nucleus’s evidence (polygenic risk models showing average benefits from selecting lower-risk embryos) did not establish how accurately IVF+ could rank a full group of five embryos or validate the percentage-point differences displayed in its advertising. NAD also recommended that Nucleus discontinue the claim that clients “can see which embryo has the lowest risk for cancer” or modify it to avoid conveying that Nucleus IVF+ enables clients to accurately predict which embryo has the lowest overall risk of developing cancer finding that Nucleus’s evidence concerning specific cancer models was not a good fit for the claim and did not explain how separate cancer-specific results are combined into a single overall cancer-risk ranking. NAD also recommended that Nucleus modify its advertising to avoid conveying that IVF+ can accurately determine each embryo’s hair and eye color, which embryo will be tallest, and which embryo will have the highest IQ, finding that Nucleus’s evidence failed to establish its ability to accurately identify these features. Nucleus appealed the decision.

Nucleus Genomics, Inc. (Nucleus IVF+), Report #7559, *NAD/CARU Case Reports* (Aug. 2026)

During an NAD inquiry examining Alice Mushrooms, LLC’s support for claims about its mushroom-containing chocolate products, Alice Mushrooms informed NAD that it voluntarily permanently discontinued all of the challenged claims for the Brainstorm product (such as “Clinician-approved chocolate”), and all but one of the claims for its Zen-X product. The remaining claim for Zen-X product was “What you’ll notice: calm, collected, clear-headed” and Alice Mushrooms modified it to “cool, calm and collected is one *delicious* bite away.” Reviewing the modified claim, NAD recommended that it be further modified to make clear that it is limited to saffron. NAD determined that one of the clinical studies on saffron included many indicia of reliability and found statistically significant results on measures, including tension, stress, and vigor. However, NAD determined that Alice Mushrooms’ evidence (studies of three key ingredients: L-theanine, kanna, and saffron) was not a good fit to demonstrate the impact of L-theanine and kanna extract to confer the claimed cool, calm and collected, and clear headed benefits. NAD noted that nothing prevents Alice Mushrooms from making a qualified claim as to kanna’s safety and tolerability.

Alice Mushrooms, LLC (Brainstorm and Zen-X), Report #7563, *NAD/CARU Case Reports* (Sept. 2026)

Incentivized Review Program Challenge

In a challenge brought by competitor The Procter & Gamble Company (P&G), consumer products company Zuru Edge Limited voluntarily discontinued practices to comply with the FTC's Endorsement Guides for future incentivized review programs. P&G alleged that Zuru has been running an incentivized review program through a private Facebook group with 5,000+ members, and that Zuru has solicited consumers to write reviews in exchange for full product price reimbursement and has not instructed reviewers to disclose their material connection. During the inquiry, Zuru stated that it has discontinued the group and modified its practices to instruct consumers to include a clear and conspicuous disclosure that the purchase price of the reviewed product was being reimbursed. As to reviews already posted, NAD recommended that Zuru make reasonable efforts to have any recent reviews of current products revised to include any necessary disclosures or to notify third-party retail channels that these reviews were incentivized.

Zuru Edge Limited (Incentivized Review Program), Report #7585, *NAD/CARU Case Reports* (Sept. 2026)

Savings Claims and Strikethrough Pricing

Following a routine NAD inquiry, bike manufacturer Syscend, Inc. d/b/a Guardian Bikes modified certain advertising claims and practices concerning its children's and adult bikes, including savings claims, strike-through pricing, limited-time sale language, and consecutive countdown timers. At issue was whether advertising used in social media, promotional emails, website product and checkout pages, and third-party search advertising, that paired "40% off" claims with limited-time sale language and a free-accessory offer conveyed an unsupported message that consumers would receive both a temporary 40% discount from Guardian's ordinary prices and free accessories. During the inquiry, Guardian stated that it would modify its advertising to make clear that the savings reflect everyday competitor comparisons, clarify that limited-time accessory bundles are separate from comp-value savings, and ensure sale indicators clearly state what is included. NAD further recommended that clarifying language appear in the main claim or in a clear and conspicuous, noncontradictory disclosure that is repeated where necessary. During the inquiry into Guardian's strikethrough pricing, which included reference prices that did not clearly disclose that the comparison was based on comparable value rather than Guardian's own former price for the same product, Guardian stated that it would modify its advertising to provide conspicuous comparative-value disclosures. Guardian also stated that it worked with Google and Meta to remove or revise ads that displayed comparison pricing without the required disclosures and stated that it would monitor its advertising and remove comparison pricing that lacked the disclosures. NAD further recommended that any qualifying language clearly identify the strikethrough price as the comparable value of competitors' bikes and appear in the main claim or in a clear and conspicuous disclosure that does not contradict the main claim and is repeated where necessary.

Syscend, Inc. d/b/a Guardian Bikes (Bikes), Report #7592, *NAD/CARU Case Reports* (Sept. 2026)

Pressure Washer Claims

Following a reopened inquiry, NAD determined that Westinghouse Outdoor Power Equipment provided a reasonable basis for its maximum pressure and flow rate claims for certain electric pressure washers under the conditions tested and recommended that it clearly and conspicuously disclose the specific operating conditions to achieve maximum PSI and GPM claims. By way of background, pressure washer performance is generally measured by two metrics: pressure (measured in pounds per square inch or "PSI") and flow rate (measured in gallons per minute or "GPM"). In the original competitor challenge, TTi Outdoor Power Equipment, Inc. alleged that Westinghouse's ads inflated the pressure and flow

rate of its pressure washers. In that challenge, NAD recommended that Westinghouse discontinue its express claims and, because Westinghouse declined to comply, NAD referred the matter to relevant government authorities. Subsequently, Westinghouse petitioned to reopen the proceeding and provided new testing to support its express claims. NAD found that Westinghouse makes max PSI and max GPM claims without any qualification or disclosure that the maximum PSI and GPM values can only be achieved under a very particular set of conditions. NAD, therefore, concluded that Westinghouse's unqualified max PSI and max GPM claims did not sufficiently inform consumers of the material limitations of the claims. Accordingly, NAD recommended that Westinghouse clearly and conspicuously disclose the circumstances under which its claimed maximum PSI and GPM are obtainable, including that maximum pressure is measured through three-second trigger cycles.

Westinghouse Outdoor Power Equipment (Electric Pressure Washers), Report #7496RO, *NAD/CARU Case Reports* (Sept. 2026)

NAD to Refer Genspark to FTC for AI Claims

Following a routine monitoring inquiry concerning certain express claims made by Genspark, Inc. on its website and in the New York City subway about its Genspark.ai agents, NAD will refer Genspark to the FTC and other appropriate agencies for review and possible enforcement action due to its failure to respond and to substantiate its claims.

Genspark, Inc. (Genspark.ai agents), Report #7584, *NAD/CARU Case Reports* (Aug. 2026)

Voluntarily Discontinued Claims

In a challenge brought by competitor VeSync US Corporation, d/b/a Levoit, household fan manufacturer DREO Incorporated voluntarily discontinued the challenged claims for its pedestal and tower fan products. During the proceeding, DREO informed NAD that it would permanently discontinue all challenged express and implied claims regarding the noise levels, comparative performance, sleep benefits, and value of its pedestal and tower fan products. NAD will treat the discontinued claims as though it recommended they be discontinued.

DREO Incorporated (DREO Pedestal and Tower Fans), Report #7608, *NAD/CARU Case Reports* (Aug. 2026)

Following a Fast-Track SWIFT challenge by competitor Project Applecart LLC, Rational 360, Inc. voluntarily discontinued claims that it has a patent on its Pinpoint Targeting technology. Applecart, which also offers services that help clients target ads and communications to key decision-makers, challenged the express claim that Rational 360 has a patent on its Pinpoint Targeting technology along with an implied claim that it is a novel, sophisticated technology that Rational 360 developed, and for which a patent was issued by the USPTO. NAD will treat the discontinued claims as though it recommended they be discontinued.

Rational 360, Inc. (Pinpoint Targeting), Report #7612, *NAD/CARU Case Reports* (Aug. 2026)

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* In April 2026, Simpson Thacher announced plans to expand its presence in Asia with an office in Singapore.

** In August 2026, Simpson Thacher announced plans to expand its presence in the U.S. with an office in Chicago.

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