

## Deceptive Advertising: A Summary of Case Studies

| Case Details<br>(Who, What, When & Where)  | Deceptive Practice  | Penalty<br>(Negative Incentive)  |
|--|---|--|
| 1. FTC vs. Hasbro and the advertising agency, Griffin Baca, 1993 and 1996                          | Misrepresented GI Joe and “Color-blaster” paint sprayer in ads and packaging. In both cases special tricks were used to make the toys appear to do more than they actually could.         | In a 1993 consent agreement, Hasbro and its ad agency were told to stop the practices and that they could be penalized \$10,000 per future incident. Hasbro paid a \$175,000 penalty. In 1996, Hasbro paid \$280,000 for violations of the 1993 agreement. |
| 2. FTC vs. New Balance Athletic Shoes, Inc and Hyde Athletic Industries, Inc, 1996                 | Claiming that <i>all of their</i> athletic footwear is made in the United States when a substantial amount is made <i>wholly</i> abroad.  | In a settlement agreement, both companies were told to stop claiming that footwear made totally abroad was made in the United States.  |
| 3. FTC vs. Apple Computer, 2000  | Promised consumers free access to live technical support for as long as they owned their Apple product. Apple later began charging \$35 for such access.                                  | An agreement required Apple to reinstate its promise to customers. The agreement also required Apple to reimburse each consumer who had paid a fee for technical support.  |
| 4. FTC vs. Bumble Bee Seafoods, 2000   | Can labels stated: “75¢ OFF Next Purchase Details Inside Label.” The inside of the label disclosed consumers were not eligible for the 75¢ off unless they purchase five additional cans. | The company was told to stop these practices. It was also ordered to establish a coupon program offering 75¢ off the purchase of any 2 cans or multi-packs of the tuna.  |
| 5. Group of Film goers (Class Action) vs. Sony Pictures Entertainment (Class action), 2001         | A fake movie critic praised films in ads.   | A \$1.5 settlement. Moviegoers who saw the films praised by the fake critic can request a \$5 ticket reimbursement. Any funds remaining go to charity. On its own, the company temporarily suspended the two marketing execs who created the fake critic.  |
| 6. FTC vs. Interstate Bakeries Inc. (manufacturer of Wonder Bread) and Campbell Mithun (ad agency) | Claimed the added calcium in its product could improve children’s brain function and memory.  | A settlement forbids the company from making certain types of health benefit claims in the future, unless they have adequate substantiation.   |

|   |   |  |
|---|---|--|
| 7. FTC vs. Exxon, 2003  | Claimed its Supreme gasoline makes engines cleaner and reduces auto maintenance costs.  | The company was told to stop making the unsubstantiated claims.  |
| 8. National Advertising Division Recommends Cash App Financial Services Platform Discontinue or Modify Megan Thee Stallion Video About Investing, 2022              | Cash App commercial with Megan Thee Stallion tells consumers they can invest as little as a dollar and “with my knowledge and your hustle, you’ll have your own empire in no time” and that this was vague, non-actionable puffery with no support for the message. | Cash App agreed to comply with NAD’s recommendations and took the ad off the air. They disagree with NAD’s conclusion about the message conveyed by the video and noted that it “fully complies with all regulatory requirements regarding the sale of Bitcoin.” |
| 9. NAD Forum: Following NAD Inquiry, P&G Modifies Material Connection Disclosures in Influencer TikTok Videos, 2020   | P&G’s Bounty paper towels TikTok challenge did not disclose that the videos were a paid sponsorship between the influencer and P&G when uploaded to Instagram   | P&G immediately began requiring that influencers embed disclosures in their videos so that disclosures would transfer along with the videos when shared across platforms.  |
| 10. NAD Forum: Procter & Gamble Company (maker of Pringles® Original Potato Crisps) vs. PepsiCo/Frito-Lay, Inc. (maker of Lay’s Stax® Original Potato Crisps), 2005 | Frito-Lay claimed “America prefers the taste of Lay’s Stax® Original Potato Crisps over Pringles® Original Potato Crisps.”  | No penalty. An independent double-blind test provided a reasonable basis for its claim.  |
| 11. CARU Forum: McDonalds, 2005   | McDonalds did not show all options available as part of its Mighty Kids Meals.  | McDonalds disagreed with decision but will take the recommendations into consideration in its future advertising. The ad had already completed its on-air rotation.  |
| 12. Kyle Gray (individual consumer) and Center for Science in the Public Interest (CSPI) vs. PepsiCo in New Jersey, 2005  | Tropicana Peach Papaya drink had no peach juice and no papaya juice. In fact, it had only a very small amount of pear juice with water and corn syrup being the main ingredients.   | In a settlement, PepsiCo agreed to make some changes to its labels. Also, to 1) pay Gray \$2,500, 2) make a \$100,000 donation to the American Heart Association and 3) provide an additional \$50,000 for legal expenses fees of those who filed the suit.      |