



*A service of the advertising industry and Council of Better Business Bureaus*



---

# Telecommunications Digest

**About NAD:** The National Advertising Division is an investigative arm of the U.S. advertising industry's self-regulatory process and is administered by the Council of Better Business Bureaus.

NAD seeks to ensure that claims made in national advertising are truthful, accurate and not misleading. NAD requires that objective product performance claims made in advertising be supported by competent and reliable evidence.

NAD cases can be initiated through staff monitoring of advertising claims or through "challenges" to advertising claims filed by competitors, consumers, or public interest groups.

Between 2008 and 2011, NAD issued more than 30 decisions involving a wide range of claims related to the telecommunications industry, often requiring that the claims be modified or discontinued.

Excerpts from several recent NAD cases follow; each case involves consideration of the claims made in the advertising and labeling and the supporting evidence provided by the advertiser.

Compliance with NAD decisions is voluntary. Nevertheless, NAD enjoys a high rate of compliance. Advertisers that either refuse to participate in the self-regulatory process or do not implement the NAD recommendations are referred to the government.

**DIRECTV, Inc.**

**DIRECTV**

Case # 5208 (8.25.10)

NAD noted that an advertiser is responsible for all reasonable interpretations of its claims, and recommended changes to unsupported performance claims.

**Claims at issue:**

- "Over 130 HD Channels" Claims
- "Best HD Picture" Claims
- "On Demand" Claims
- "99.9% Signal Reliability" Claims

**NAD findings:** NAD determined that the advertiser's "over 130 HD Channels" claims are properly substantiated. NAD further determined that consumers were likely to take away the message that "On Demand" programming would be available when the consumer wanted to view it and that the advertiser had provided a reasonable basis for such a message. NAD recommended that it modify its "best picture quality" claims and more narrowly tailor them by either specifying the number of movies and/or programs provided in 1080p or otherwise indicate that not all movies are available in 1080p. NAD recommended that the advertiser discontinue its claim that it offers, "movies in 1080p HD, the same stunning quality as Blu-Ray." NAD further recommended that the advertiser discontinue its claims of "99.9% signal reliability" and that it is a "myth" that its service suffers from weather outages.

NAD recommended the advertiser limit the claim that it has "Over 130 HD channels – with the capacity for over 200 channels coming soon," to having "the capacity to offer *even more*" channels to avoid the implication that delivery of these additional channels is imminent. With respect to advertiser's claim that it has the "most HD channels", NAD noted that as limited in the challenged commercials (to "full time" HD channels as compared to DISH Network and Comcast), this claim is properly substantiated.

**ECHOSTAR COMMUNICATIONS CORPORATION**

**DISH Network Satellite Television Service**

Case # 5193 (6.29.10)

NAD determined that the claim "99.9% signal reliability" conveys the messages that consumers who have DISH will experience interruption-free television service 99.9% of the time – a claim which is not supported by the evidence in the record.

**Claim at issue:** *Customers that switch to DISH from cable or other television services will enjoy "99% Signal Reliability"*

**NAD findings:** NAD noted that the challenged advertisements focus on the television-viewing experience of the DISH consumer, touting features such as the number of national HD channels available, the quality of the HD picture, DVR upgrades and DVRs with multi-room view.

NAD questioned the value or relevance of the claim "99.9% signal reliability" to consumer if it means that, although the signal is available (emitted from the satellite 99.9% of the time, the consumer still may not be able to watch television 99.9% of the time. Therefore, NAD recommended that the advertiser discontinue its use of the claim "99.9% signal reliability."

**Verizon Communications, Inc.**

**Verizon FiOS**

Case # 5179 (5.24.10)

NAD found that Verizon FiOS advanced a meaningful innovation by extending its fiber optics beyond the neighborhood “node” all the way to consumers home.

**Claims at issue:**

- “100% fiber optics,” “pure fiber optics,” “undiluted” fiber optics,
- “fiber optics instead of copper wiring to connect a customer to the Verizon network.”
- “Welcome to Verizon FiOS. It’s pure undiluted movies, music, and sports. They flow on light straight to your home. 100% digital fiber optics makes videos and music come alive and takes hi-def to a higher level...And it all flows to your home.”
- “100% fiber optic picture and sound”

**NAD findings:** NAD determined that Verizon’s claims that its FiOS network is comprised of “100%” “pure” and/or “undiluted” fiber optics are truthful, accurate, and not misleading. NAD also determined that the advertiser had supported its claims that Verizon FiOS uses “fiber optics instead of copper wiring to connect a customer to the Verizon network,” and that FiOS offers “100% fiber optic picture and sound.” NAD’s findings were upheld on appeal by the National Advertising Review Board (NARB Report #166).

**COX COMMUNICATIONS, INC.**

**Fiber Optic Telecommunications**

Case # 5168 (4.27.10)

NAD determined that a reasonable interpretation of Cox’s “fiber optic network” claim is that Cox offers its services over a network which consists of fiber optics and is the functional and/or technical equivalent to a telecommunications network where fiber does extend to the home – a claim which the evidence in the record does not support.

**Claims at issue:**

- Cox Digital cable is “delivered through our advanced Fiber Optic Network.”
- Cox is “the New Face of Fiber.”
- Testimonials comparing Verizon FiOS to Cox.

**NAD findings:** NAD recommended that the advertiser discontinue claims that describe its telecommunications network as a “fiber optic network” because they convey the message that Cox’s network is the functional or technical equivalent of a telecommunications network in which fiber extends to the home, a message the evidence in the record did not adequately support. NAD further determined that the advertiser provided a reasonable basis for its consumer testimonials regarding channel availability but recommended that the advertiser discontinue the use of the challenged consumer testimonials disparaging Verizon FiOS customer service and billing practices.

**TIME WARNER CABLE, INC.**

**Fiber Optic Telecommunications**

Case #5166 (4.23.10)

NAD determined that a reasonable interpretation of TWC’s “fiber optic network” claim is that TWC

offers its services over a network that consists solely of fiber optics and is the function and/or technical equivalent to a telecommunications network where fiber does extend to the home – a claim which the evidence in the record does not support.

**Claims at issue:**

- *Time Warner Cable's "fiber-optic network delivers speeds up to 15 Megs for a dramatically faster online experience"*
- *"Road Runner Turbo is zooming across the advanced fiber network"*
- *Time Warner Cable's high-speed online is "fiber-optic fast"*

**NAD findings:** NAD recommended that the advertiser discontinue claims that describe its telecommunications network as a "fiber optic network" or "advanced fiber optic network" because they reasonably convey the message that Time Warner Cable's network is the functional or technical equivalent of a telecommunications network in which fiber extends to the home, a message that the evidence in the record did not support.

**COMCAST CORPORATION**  
**High-Speed Internet Services**  
Case # 5095 (10.14.09)

NAD recommended that the advertiser modify its "up to" speed claims to more accurately reflect the limitations of the maximum available speed.

**Claims at issue:**

- *Speed claims, including "Comcast High-Speed Internet Up to 12 Mbps with PowerBoost" and "Comcast High-Speed Internet with PowerBoost gives you the fastest speed you need to share, surf, game, stream, and download online"*
- *Competitive Subscription Plan Claims, including "You don't have to sign a long term contract, like with Qwest" and "Qwest bundles their service with a long term contract."*

**NAD findings:** NAD determined that the advertiser provided a reasonable basis for the claims that Comcast offers High-Speed Internet "Up to 12 Mbps with PowerBoost." NAD recommended, however, that the certain disclosures about the limitation of its maximum available speed (a burst of speed available for the first 10mb to 20mb of a file) be more clearly and conspicuously closed in future advertising. NAD recommended that the advertiser discontinue or modify print advertising to avoid conveying the implied message that all Qwest customers are required to enter into minimum term contracts.

**COX COMMUNICATIONS**  
**High-Speed Internet Services**  
Case #5094 (10.14.09)

NAD recommended that the advertiser modify "up to" speed claims to more accurately reflect the limitations of the maximum available speed.

**Claims at issue:**

- *Speed claims, including "PowerBoost® gives you an extra burst of speed up to twice as fast as Qwest's fastest DSL" and "Up to 15Mbps download speed with PowerBoost®"*
- *Competitive Subscription Plan Claims, including "Say no to Qwest long-term contracts and unmet expectations"*

**NAD findings:** NAD determined that the advertiser provided a reasonable basis for the claims of the maximum speeds delivered by PowerBoost. NAD recommended that certain disclosures about the limitation of its maximum available speed be made more clearly and conspicuously disclosed in future advertising. NAD found discontinuance of claims regarding Qwest subscription plans was necessary and appropriate to avoid conveying an unsupported message that Qwest requires all of its customers to sign long term contracts.

**Claims at issue:**

- *Time Warner Cable's "fiber-optic network delivers speeds up to 15 Megs for a dramatically faster online experience"*
- *"Road Runner Turbo is zooming across the advanced fiber network"*
- *Time Warner Cable's high-speed online is "fiber-optic fast"*

**NAD findings:** NAD recommended that the advertiser discontinue claims that describe its telecommunications network as a "fiber optic network" or "advanced fiber optic network" because they reasonably convey the message that Time Warner Cable's network is the functional or technical equivalent of a telecommunications network in which fiber extends to the home, a message that the evidence in the record did not support.

**COMCAST CORPORATION**  
**High-Speed Internet Services**  
*Case # 5095 (10.14.09)*

NAD recommended that the advertiser modify its "up to" speed claims to more accurately reflect the limitations of the maximum available speed.

**Claims at issue:**

- *Speed claims, including*
- *"Comcast High-Speed Internet Up to 12 Mbps with PowerBoost" and "Comcast High-Speed Internet with PowerBoost gives you the fastest speed you need to share, surf, game, stream, and download online"*
- *Competitive Subscription Plan Claims, including "You don't have to sign a long term contract, like with Qwest" and "Qwest bundles their service with a long term contract."*

**NAD findings:** NAD determined that the advertiser provided a reasonable basis for the claims that Comcast offers High-Speed Internet "Up to 12 Mbps with PowerBoost." NAD recommended, however, that the certain disclosures about the limitation of its maximum available speed (a burst of speed available for the first 10mb to 20mb of a file) be more clearly and conspicuously closed in future advertising. NAD recommended that the advertiser discontinue or modify print advertising to avoid conveying the implied message that all Qwest customers are required to enter into minimum term contracts.

**COX COMMUNICATIONS**  
**High-Speed Internet Services**  
*Case #5094 (10.14.09)*

NAD recommended that the advertiser modify "up to" speed claims to more accurately reflect the limitations of the maximum available speed.

**Claims at issue:**

- *Speed claims, including "PowerBoost® gives you an extra burst of speed up to twice as fast as Qwest's fastest DSL" and "Up to 15Mbps download speed with PowerBoost®"*

- *Competitive Subscription Plan Claims, including "Say no to Qwest long-term contracts and unmet expectations"*

**NAD findings:** NAD determined that the advertiser provided a reasonable basis for the claims of the maximum speeds delivered by PowerBoost. NAD recommended that certain disclosures about the limitation of its maximum available speed be made more clearly and conspicuously disclosed in future advertising. NAD found discontinuance of claims regarding Qwest subscription plans was necessary and appropriate to avoid conveying an unsupported message that Qwest requires all of its customers to sign long term contracts.

---

**The ASRC Online Archive** is an exclusive resource for the advertising industry and contains decisions authored by the:

- Children's Advertising Review Unit
- Electronic Retailing Self-Regulation Program
- National Advertising Division
- National Advertising Review Board

The full text of each decision issued by the advertising industry's self-regulatory system is available by subscription.

**The Annual NAD/CARU/ERSP Conference:** The ASRC and the CBBB will present the annual NAD and CARU conferences Oct. 1-3, 2012. This year, for the first time, the Electronic Retailing Self-Regulation Program is scheduled to offer a half-day session.

For more information about Archive subscriptions, please contact Rey Persaud, Marketing Manager. She can be reached at 212.705.0113, or by email at [rpersaud@asrc.bbb.org](mailto:rpersaud@asrc.bbb.org).

To register for the annual conference, please visit [www.asrcreviews.org](http://www.asrcreviews.org).