Advertising Industry Self-Regulation

Florida State Attorney General Consumer Protection Seminar

July 10, 2013

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President, National Advertising Review Council
EVP, National Advertising, CBBB
National Advertising Programs

• **NAD – 1971**: Developed in response to consumers’ concerns about truth and accuracy in advertising.

• **CARU – 1974**: Chartered to assure that advertisers would take special care in addressing advertising messages to a vulnerable audience.

• **ERSP – 2004**: Developed at the request of ERA to help combat a negative perception of direct-response marketing and monitor industry “outliers.”

• **Initiative – 2006**: Formed to address broad public concern over advertising and childhood obesity.

• **NAD/CRN – 2007**: Created in cooperation with the Council for Responsible Nutrition to expand NAD’s review of dietary-supplement advertising and rein in outrageous claims.

• **Online Interest-Based Advertising Accountability Program – 2011**: Developed in cooperation with the Digital Advertising Alliance to ensure industry compliance with the Self-Regulatory Principles for Online Behavioral Advertising (Principles).
Administered by the Council of Better Business Bureaus

- More than 100 Bureaus
- Business Ratings
- Complaint Resolution
Top 10 Most Common Complaints

1. Cellular Telephone...
2. Auto Dealers - New Cars
3. Television - Cable...
4. Collection Agencies
5. Auto Dealers - Used Cars
6. Banks
7. Telephone Companies
8. Furniture - Retail
9. Auto Repair & Service
10. Internet Shopping
BBB Business Review

BBB BUSINESS REVIEW

THIS BUSINESS IS NOT BBB ACCREDITED

Broadway Global Master, Inc.

(866) 234-8815 (Disconnected)
View Additional Phone Numbers
1570 Eastlake Cir., Tracy, CA 95304-5806
http://www.bgminc.us

! There is an alert for this business !

On a scale of A+ to F
Reason for Rating
BBB Ratings System Overview
Appendix A2: Consumer Sentinel Network Major Data Contributors

January 1 – December 31, 2012

Better Business Bureau – 21%
BBB Scam Spotter
Top scams of 2012
Example: National Advertising Division

- Jurisdiction: Truth and Accuracy of National Advertising
- All media
- All Commercial Advertisers
How NAD Process Works

- Complaint or staff monitoring
- Request to advertiser for substantiation
- Review of evidence
Key Areas of Interest in 2012

• Product-performance claims – 40
• Dietary Supplements – 22
• Food, Beverages – 12
• Telecommunications – 11
• Cosmetics – 11
• Green marketing, claims made in social media
Self-Regulation for Companies in COPPA Safe Harbors

By Catherine Dunn

Corporate Counsel - Articles

A company had a buffer between it and the Federal Trade Commission as it’s enacted tough new rules in the Children’s Online Privacy Protection Act (COPPA)—someone who could pick up the phone and make better decisions with analytics, NOW on P2P.

Disruptions: Celebrities’ Product Plugs on Social Media Draw Scrutiny

And make better decisions with analytics, NOW on P2P.

FTC-approved safe harbor programs, a kind of shelter built into COPPA.
Non-Compliance? Non-Participation?
FTC Requires Oreck to Stop Making ‘False,’ ‘Unproven’ Claims

For Release: 04/07/2011

FTC Settlement Requires Oreck Corporation to Stop Making False and Unproven Claims That Its Ultraviolet Vacuum and Air Cleaner Can Prevent Illness

Marketer Must Pay $750,000

As part of its ongoing efforts to protect consumers from bogus health claims, the Federal Trade Commission has reached a settlement requiring Oreck Corporation to stop making allegedly false and unproven claims that two of its appliances can reduce the risk of flu and other illnesses, and eliminate virtually all common germs and allergens. The company also has agreed to pay $750,000 to the FTC.

The FTC’s allegations involve the Oreck Halo vacuum and the Oreck ProShield Plus air cleaner. The Halo is an upright vacuum cleaner with a light chamber that generates ultraviolet light onto the floor while vacuuming. The ProShield Plus is a portable air cleaner that filters air particles using an electrostatic charge. The Halo retailed for $599.95, while the ProSheild Plus cost as much as $399.95.

According to the FTC complaint, Oreck advertised these two products through infomercials, traditional television ads, print ads, in-store displays, and ads online. During the 2009 holiday season, online ads pictured the Halo and the ProShield Plus side by side under the headline "Introducing the Oreck Flu Fighters, Help Reduce the Flu on Virtually any Surface and in the Air in Your Home" and claimed that the Proshield Plus "captures and destroys many airborneviruses like the flu." An infomercial for the Oreck Halo claimed, "The Oreck Halo has killed up to 99.9 percent of bacteria exposed to its light in one second or less," and that the vacuum's light chamber "has been tested and shown to kill up to 99.9 percent of certain common germs, plus dangerous pathogens like E. Coli and MRSA."
Non-Compliant

NAD Refers Advertising for Diaper Rash Product to FTC after Summers Laboratories Declines to Abide by NAD Recommendations

February 15, 2012

Henry M. Rubenstein, Esq.
P.O. Box 649435
Miami, Florida 33164-0435

Re: Any, Inc., dba Ketomist.com

Dear Mr. Rubenstein:

Following a referral from the National Advertising Division of the Council of Better Business Bureaus ("NAD"), the staff of the Federal Trade Commission’s Division of Advertising Practices sent Any, Inc., dba Ketomist.com ("Ketomist") a warning letter indicating that we were unaware of any reliable scientific evidence that would substantiate the claims being made by Ketomist about its iC9G weight-loss products. The NAD referral was based on Ketomist’s failure to comply with NAD’s recommendation that it cease making such claims after promising to do so. Our review was to determine whether the weight-loss claims of Ketomist violated Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52.

Upon careful review of this matter, we have determined not to take additional action at this time. Among the factors we considered are your client’s decision to cease marketing homeopathic iC9G products for weight loss and its discontinuation of the website and all of its Internet and radio advertising for this line of products in response to the warning letter. The Commission reserves the right to take such further action as the public interest may warrant.

Very truly yours,

Mary K. Engle
Associate Director

For Your Information: 03/06/2013

FTC Approves Final Orders Settling Charges Against The Sherwin-Williams Co. and PPG Architectural Finishes, Inc.; Issues Enforcement Policy Statement on "Zero VOC" Paint Claims

For Release: 01/16/2013

FTC Commissioners Uphold Trial Judge Decision that POM Wonderful, LLC; Stewart and Lynda Resnick; Others Deceptively Advertised Pomegranate Products by Making Unsupported Health Claims
FREE PRESENTATION:
"Discover How You Can Speak Any language... In Just 10 Short Days... Free From The Computer... Free From Memorization... And Absolutely Guaranteed!"
(Note: Only available for a limited time. May take 10 seconds to load. Turn on your speakers and enjoy!)

PLEASE TURN ON YOUR SPEAKERS PRESENTATION BEGINS IN...

5

16 Languages Available
Choose Your Language
Add to Cart
Healthy Directions

Healthy Directions, LLC
Joint Advantage Gold
Supplement Case #5512
(10/04/12)

Original strength pain relief

BEFORE...

Painful Bone-on-Bone Contact

AFTER...

PAIN FREE!

Worn out Cartilage
Less Joint Space

Stronger Healthy Cartilage
More Joint Space

• Reduce joint pain—in as little as 7 days!
• Improve mobility and flexibility
• Build healthy joint cartilage
• Eliminate stiffness

Joint Advantage Gold helps you in 3 major ways:
3. Building cartilage-building power
Glucosamine sulfate and borate cartilage build healthy cartilage around your joints, improving joint function.

Order today and take 20% OFF your entire purchase!
USPLabs

USPLabs, LLC
Jack3d Products
Case #5576
(04/25/13)
Nutrisystem, Inc.

Nutrisystem Pinterest Board
Case #5479 (06/29/12)
GOODNIGHTIES, INC.
Goodnighties High Performance Recovery Sleepwear
Case #5568 (03/27/13)
Dove

Unilever United States, Inc.
Dove Deep Moisture Body Wash
Case #5599 (06/03/13)
Lifestyle Lift

Lifestyle Lift Holdings, Inc.
Lifestyle Lift
Case #4654 (04/11/07)
CARU

• Truthful ad claims
• Clear audio & visual disclosures
• Don’t advertise inappropriate products
• Always show safe use
• Don’t use peer pressure
• Protect privacy

I. INTRODUCTION

A. Overview of the Self-Regulatory Program

In 1974, the National Advertising Review Council, now the Advertising Self-Regulatory Council (ASRC), established the Children’s Advertising Review Unit (CARU) as a self-regulatory program to promote responsible children’s advertising. CARU is administered by the Council of Better Business Bureaus (CBBB) and funded by members of the children’s advertising industry.

CARU’s self-regulatory program sets high standards for the industry to assure that advertising directed to children is not deceptive, unfair or inappropriate for its intended audience. The standards take into account the special vulnerabilities of children, e.g., their inexperience, immaturity, susceptibility to being misled or unduly influenced, and their lack of cognitive skills needed to evaluate the credibility of advertising.

CARU’s standards are embodied in principles and guidelines that were first adopted by CARU in 1975 and have been periodically revised to address changes in the marketing and media landscapes. For example, in 1996, CARU added a new section of the guidelines to address concerns about online data collection practices.

B. CARU’s Role

CARU monitors and reviews advertising directed to children, initiates and receives complaints about advertising practices, and determines whether such practices violate the program’s standards. When it finds violations, it seeks changes through the voluntary cooperation of advertisers and Website operators. CARU also offers a general advisory service for advertisers and agencies, provides informational material for children, parents and educators, and encourages advertisers to develop and promote the dissemination of educational messages to children consistent with the Children’s Television Act of 1990.

C. Boards and Advisory Bodies

Policy for CARU’s self-regulatory program is set by the Board of Directors of the ASRC, a strategic alliance of the advertising industry and the CBBB. The Board is composed of key executives from the CBBB, the American Association of Advertising Agencies, the American Advertising Federation, the Association of National Advertisers, the Direct Marketing Association, the Electronic Retailing Association and the Interactive Advertising Bureau.

CARU’s Academic/Expert Advisory Board includes leading experts in education, communication, child development, child mental health, marketing and nutrition. These advisors provide CARU with guidance on child psychology and behavioral issues, market trends and research, and other issues as they relate to advertising and marketing to children. Members of the Advisory Board also consult with CARU on individual cases and participate in the review and revision of the principles and guidelines of the self-regulatory program.
New York, NY - June 27, 2013 – The Children’s Advertising Review Unit has recommended that Toy Box Apps modify advertising for the company’s “Mall Girl” app to avoid undue sales pressure. The app warns children that if a virtual pet will be taken to the pound if child doesn’t purchase virtual food. In most cases, virtual currency must be purchased with real money.

CARU is an investigative unit of the advertising industry’s system of self-regulation. It is administered by the Council of Better Business Bureaus.

Advertising for “Mall Girl” came to the attention of CARU through CARU’s ongoing monitoring of advertising directed to children.

“Mall Girl” App can be downloaded from the iTunes.com website for free under the condition that the virtual mall shopping trip is not used for advertising similar products. The app is recommended for ages 4 and up, allows users to shop for clothing items at a virtual mall.
CARU Recommends KEE Action Sports Modify Broadcast Advertising to Better Depict Adult Supervision


CARU is an investigative unit of the advertising industry’s system of self-regulation. It is administered by the Council of Better Business Bureaus.

Advertising for the product came to the attention of CARU through its routine monitoring of advertising directed to children. The commercial aired during children’s programming.

The advertising at issue opens with two teens in the family backyard, playing near their mother, who is gardening. The action shifts to a fantasy sequence in a forest setting and then again to the backyard.

A voiceover states at the close of the commercial: “You can look for JT Splatmaster in the sporting goods section at these fine retailers or at JTSplatMaster.com. Must be 18 or older to purchase. Adult supervision required. Accessories sold separately. Optix goggles must be worn at all times.”

Follow Us!

Kee Action Sports
JT Splatmaster pistols, shotguns and accessories
Case # 5590
(5/23/13)
CARU and COPPA

CARU Recommends USA BMX/BMX Mexico Modify Website to Better Protect Children’s Privacy Company Agrees to Do So

9.12.12

CARU Recommends Mattel Implement Age-Screening at its ‘Barbiethedreamcloset’ Website; Company Does So

7.25.12

CARU Recommends Movie Star Planet Website Take Steps to Better Protect Children’s Privacy

7.11.12
The Accountability Program

Accountability Program Looks Under Hood of Online Ad Campaign: Self-Regulation Process Ensures Consumers Receive Notice of Interest-Based Ads

The Online Interest-Based Advertising Accountability Program (Accountability Program) released five decisions following inquiries into whether an online interest-based advertising campaign for Kia Motors America (Kia) was consistent with the Self-Regulatory Principles for Online Behavioral Advertising (OBA Principles).

Accountability Program: Self-Regulation Keeps Pace with Innovation

The Online Interest-Based Advertising Accountability Program (Accountability Program) today released the
Online Interest-Based Accountability Program

The “Advertising Option Icon” and accompanying language should be displayed in or near online advertisements or on Web pages where data is collected and used for behavioral advertising. The Icon indicates adherence to the Principles.

By clicking on the Icon, consumers will be able to link to:
- a clear disclosure statement regarding the company’s OBA data collection and use practices.
- an easy-to-use opt-out mechanism.
Industry Group Calls Out Kia for Not Disclosing Behavioral Ads

Market Failed to Include AdChoices Icon in Online Ads; Media Agency, Ad Networks Also Cited in Decision

By: Cotton Deo  Published: October 01, 2012

The advertising self-regulatory body charged with policing behaviorally targeted ads today issued its first decision against a major advertiser, Kia, for a campaign that failed to comply with the industry's guidelines.

The Online Interest-Based Advertising Accountability Program's decision also named Kia's media agency, Initiative; ad server, Microsoft Atlas; and ad networks, Specific Media and Rocket Fuel; indicating that every party involved in creating an ad campaign must comply with industry rules.
New for 2013

• Expanded coverage to multi-site data collection
• Restrictions on use for eligibility for credit, insurance, employment
CFBAI Launched in 2006

- Respond to IOM/FTC calls for self regulation to do more
  - Change foods advertised to kids under 12 to include healthier ones
- CFBAI addresses “what” foods are advertised
  - CARU addresses “how” all products, including foods, are advertised
- Bring transparency and accountability to company commitments
- Be part of the solution; support parents, schools
Children’s Food and Beverage Advertising Initiative

- 16 leading Children’s Food Advertisers participate
- Companies make public commitments about their child-directed advertising
- BBB monitors compliance with pledges and publicly reports findings
New Uniform Criteria for 2013

• Uniform Criteria for Categories of Food
• Overall stronger than current company-specific criteria
• Fill gaps in current standards
• Rigorous Implementation Deadline – Dec. 31, 2013
• Will drive further changes
  – Many product recipes would need to be changed
  – Provides a strong, but reasonable, roadmap for new product development
Public Decisions

All decisions are reported in a press release and published in the NAD/CARU Case Reports.
Thank you.
For more information, please visit us on the Web @
www.asrcreviews.org
www.bbb.org