

NAD Combs Through #1 Claims

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Simpler Hair Color (or “SHC”) advertises that its products are “Rated #1 Men’s Hair Color” and “Rated #1 Men’s Hair & Beard Color” based on “Trustpilot.com verified reviews.” Combe, a competitor, challenged the #1 claims before the NAD, arguing that the claims are unsubstantiated because Trustpilot doesn’t have a “Men’s Hair Color” category and that SHC is not listed as #1 in any actual Trustpilot category.

According to the decision, SHC “formulated the claim based on its own assessment of the products rated on Trustpilot.” NAD didn’t think this assessment was appropriate, given how it thought consumers were likely to interpret the claim. NAD determined that SHC’s ads reasonably conveyed “a message that the claim is based on reviews in a recognized category on Trustpilot.com.” That wasn’t the case.

Moreover, NAD noted that “the record did not show that the men’s hair color products reviewed on Trustpilot were in any way representative of the men’s hair color products on the market such that the #1 claims would be based on a meaningful comparison of the competing men’s hair color products in the market.” Accordingly, NAD recommended that SHC stop making both of the #1 claims.

SHC promised to take NAD’s recommendations into account in the future but expressed dismay that, without any evidence, NAD had adopted Combe’s assertion that consumers would assume that a reference to “Men’s Hair Color” was a reference to a “formal Trustpilot category” and “that this belief would be material to those consumers – as opposed to the actual product ratings.”

The issue of whether consumers are likely to assume that a rating is based on a formal Trustpilot category is new. However, this isn’t the first time that NAD has cast doubt on the idea that Trustpilot ratings can be used to substantiate “number 1” claims. In [two other cases](#), NAD recommended that advertisers stop making claims that were literally true because of concerns with Trustpilot’s ratings methodology.

“Number 1” claims can be effective marketing tools, so your marketers will likely want to make them, when they can. But your competitors’ marketers are likely watching and they will likely want to pick those claims apart, when they can. Getting these claims right can be tricky. Be especially careful if you are relying on Trustpilot ratings. So far, NAD has shot down every comparative claim based on those.