

# NAD Decision Addresses Product Comparisons

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This month, NAD announced a decision involving T-Mobile’s ads for its TVision service. The service currently allows subscribers to watch TV over a wired broadband connection, though T-Mobile plans to offer wireless technology in the future. The decision covers a lot of ground, but we’ll focus on some key points related to product and feature comparisons in this post.

A commercial opens with a shot of a couple flipping through channels, as a T-Mobile spokesperson describes cable TV as “a rat’s nest of devices and wires.” Shots of the couple’s messy entertainment system reinforce that message. In contrast, shots of T-Mobile’s TVision service only show one wire inconspicuously coming out of one device. The challenger argued that because TVision actually requires the same number of wires and pieces of equipment as cable TV service, the claims and images were misleading. NAD agreed.

The challenger also argued that the ad implies that TVision service is wireless, in part, because the single wire is barely noticeable in the shots. NAD shared the concern, noting that T-Mobile is primarily known as a wireless company. The disclosure that “home connectivity and connected set top box [is] required” didn’t help because it didn’t mention a *wired* connection. Moreover, it wasn’t clear or conspicuous. NAD suggested that T-Mobile could address the issue by showing the wires or more clearly disclosing that three wires are required.

The challenger also took issue with T-Mobile’s claims that cable offers “outdated technology” and a “crappy” interface, especially given that the challenger provides an industry standard interface and an app with additional capabilities. NAD noted that the advertiser provided no information about the interfaces of other companies. Under NAD precedent, claims that denigrate another product must be truthful, accurate, and narrowly drawn. Because that wasn’t the case here, NAD recommended that those claims be discontinued.

When comparing your product to a competitor’s, it’s important to ensure that you accurately describe the differences between the products and show the products in a realistic manner. Be careful about exaggerating the differences. Although there may be instances in which you can argue that consumers won’t take those exaggerations seriously, that can be a hard argument to win at the NAD.

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