

NAD Hears a Dispute Between Two Big (or Maybe Medium) Guys

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January 9, 2025

Last year, T-Mobile ran a [commercial](#) in which Snoop Dogg breaks down Patrick Mahomes' "top three plays of the day" with additional commentary from influencer Kai Cenat. Mahomes scrambles into a T-Mobile store with a "little shimmy, shimmy shake" (like he's chasing an ice cream truck), holds up an iPhone 16 Pro "like a baby lion," and then takes T-Mobile's savings and "calls it a day." Snoop tells the audience that families who use T-Mobile can save 20% a month "versus the other big guys."

Charter filed an NAD challenge, arguing that it was a "big guy" and that T-Mobile's savings claims weren't accurate with respect to Charter's Spectrum Mobile service. T-Mobile pushed back, saying that Charter wasn't so big, and that T-Mobile wasn't referring to Charter at all. It demonstrated that Verizon, T-Mobile, and AT&T collectively represent 94% of the US market. Charter comes in fourth with 3.6% of the US market. So, at most, it was a medium guy in certain regional markets.

The question isn't whether T-Mobile or Charter think that Charter is a "big guy," but rather what consumers think. In this case, NAD determined that "consumers are unlikely to know a mobile provider's market share data when assessing comparative claims, as they are primarily focused on securing service from a provider that is available to them where they live." Although Charter has a much smaller footprint than the top three competitors, consumers in that footprint could reasonably believe the claim referred to Charter.

After seeing the commercial, you may be tempted to shimmy, shimmy shake after an ice cream truck and hold up a baby lion, but we wouldn't recommend it, at least not without a proper warm up and protective gear. You may also be tempted to think that making a claim against unnamed competitors is easier or less risky than naming a specific competitor, but this case shows that's not always true.

NAD has frequently held that companies must be able to substantiate claims against an unnamed competitor when consumers might reasonably interpret the ad as referring to that competitor. What makes this case a little different than some of the other ones is that although Charter might be a "big guy" in some markets, it arguably isn't a "big guy" on the national stage.

T-Mobile has promised to appeal the decision, so we'll wait to see what NARB decides.