

NAD Warns Advertiser Over Exaggerating Advantages

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Last week, NAD announced a decision involving a series of AT&T Fiber ads that holds important lessons for companies that make comparative performance claims.

Each of the ads depicts a funny scene in which a cable user is unable to perform a basic task. For example, in one ad, a mother sits in front of her laptop with a birthday cake, waiting for her son to join a video conference. When the son can't connect, the mother blows out the candle, and leaves disappointed. In another ad, an executive impatiently awaits a file for a presentation, while the person sending it panics as the file won't upload. The ads state that if you can't perform the tasks depicted because you have cable, "you need better internet," and that AT&T offers "20x faster upload speeds than cable."

In support of its claims, AT&T pointed to the undisputed fact that its Internet 1000 tier offers upload speeds that are over 20 times faster than Comcast's Gigabit Xfinity tier and submitted various articles discussing the advantages of fiber over cable. So does that mean AT&T could substantiate the claims? NAD didn't think so. When an advertiser highlights a problem with a competing product that its own product can solve, it must ensure that "the extent of the problem is not exaggerated, and the advertiser's product or service solves the problem." NAD held that AT&T fell short on both counts.

First, NAD determined that the ads did more than just convey a message that AT&T's service was faster than cable. NAD held that "consumers will reasonably take away the message that cable Internet is so unreliable that videoconferencing and uploading large files will fail entirely." There was no evidence to support that interpretation.

Second, it wasn't clear that faster speeds would necessarily solve the problems depicted in the ads. For example, NAD was persuaded by the challenger's evidence that videoconferencing would not use anywhere close to the maximum 35 Mbps offered by Comcast. Above a certain level, more speed may not make a meaningful difference.

There's a lot going on in this case - and we may not have the final word on it because AT&T announced its intention to appeal - but it's still worth highlighting because it illustrates a common issue that advertisers face. You may have solid and objective evidence to demonstrate an advantage over a competitor, but you still need to be careful that you don't overstate the significance of that advantage. Claims must be tailored to your substantiation.