

# No Crash Later, Unless You Mischaracterize an NAD Decision

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According to the [New York Times](#), the NAD has decided to reopen its review of Living Essentials' claim that its 5-Hour Energy "shot" produces "no crash later." In 2007, the NAD reviewed 5-Hour Energy's claims, found the "no crash later" claim unsubstantiated, and recommended that Living Essentials discontinue it. The NAD concluded, however, that a claim that 5-Hour Energy produces less of a crash than Red Bull or Monster Energy was substantiated.

Living Essentials modified the "no crash later" claim, adding an asterisk directing consumers to language that "no crash means no sugar crash," as both Red Bull and Monster Energy contain sugar, but 5-Hour Energy does not. In response to a New York Times study that 24% of 5-Hour Energy users experience a "moderately severe" crash, a Living Essentials spokesperson claimed that, based on the modification, the NAD found all 5-Hour Energy claims substantiated. The NAD, however, disagrees and alleges that Living Essentials has mischaracterized the NAD decision, a practice that is expressly prohibited by NAD procedures. If Living Essentials fails to adequately respond to the reopened review, the NAD will probably refer the matter to the FTC.

This article demonstrates greater attention to the NAD by national media, and that the NAD will not hesitate to come after advertisers that it believes mischaracterize NAD decisions, reopening its review of claims and, if necessary, referring the matter to the FTC.