

So You Want to Self-Regulate? The NAD As Standard Bearer

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The Federal Trade Commission has been an active proponent of industry self-regulation, recognizing that industry cooperation can lead to efficiency, innovation, and the dissemination of useful information, which can benefit both consumers and competitors. Self-regulation allows the FTC to conserve resources and direct them to high priority competition and consumer protection policy matters, while deferring to an industry that may be more capable of regulating its members than a government agency. Notwithstanding these benefits, a tension exists between industry self-regulation and competition law, in that certain cooperative activities can be ineffective substitutes for competition in promoting proper social policy, and industry cooperation can have exclusionary and anticompetitive effects. Because of this, the FTC has sought to limit its support for industry self-regulation to sound self-regulatory efforts likely to yield efficient and non-discriminatory results.

Various self-regulatory initiatives recently have been proposed or currently are underway in diverse areas that include behavioral tracking, food marketing, and privacy and data security, among others. The National Advertising Division is considered by many to be the standard against which these initiatives are compared.

Our article, published in the Spring 2013 issue of *Antitrust Magazine*, "[So You Want to Self-Regulate? The National Advertising Division As Standard Bearer](#)," discusses the strengths and weaknesses of the NAD and evaluates its performance in achieving its stated objective of promoting truthfulness and accuracy in national advertising.