

When Monsters Exaggerate

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The Grim Reaper, a mummy, a mad scientist, and a werewolf are riding together on a train after work. No, that's not the start of a joke, but it is the start of a funny commercial for Spectrum TV. The four characters talk about their weekend plans, as a light rain pelts the train's windows. When the Grim Reaper laments that his kids are upset because the "satellite dish went out in the rain . . . again," the mummy asks: "How can they sell something that doesn't always work in the rain?" The mad scientist observes: "It's gonna rain eventually, right?" The commercial ends with the following words on the screen: "TV that cuts out in the rain is evil. Spectrum is Reliable." Then: "Satellite TV Bad. Spectrum Good."



DirecTV challenged the commercial before the NAD, arguing that it falsely disparaged satellite TV as being highly unreliable in rainy weather. In its defense, Spectrum provided a survey that asked satellite customers about their TV service and experience with weather-related outages. Spectrum argued that the survey demonstrated that "rain fade" is not a rare occurrence for satellite TV subscribers, that it occurs often enough to be a significant issue with satellite service, and that it is a source of frustration for subscribers, if they experience an outage.

The companies argued about how consumers would interpret the commercial. Spectrum argued that the commercial conveyed a narrow message that satellite TV doesn't always work in the rain, and that outages can frustrate customers, two things that were proven by the survey. DirecTV, however, argued that consumers were likely interpret the commercial to more broadly suggest that satellite TV is highly unreliable, and that outages can occur with even light rain. The NAD generally sided with DirecTV, finding that statements like the "satellite dish went out in the rain . . . again" combined with phrases like "Satellite TV Bad" could convey a broader message about the unreliability of satellite TV.

The NAD determined that although the evidence submitted by Spectrum would support claims that *occasional* outages due to rain can be a problem, the evidence didn't support the broader implied claims that satellite TV service is highly unreliable, in general, and that it doesn't work in bad weather. Although the NAD "has also long recognized that humor can be an effective and creative way for advertisers to highlight the differences between products," it cautioned that "humor and hyperbole do not relieve an advertiser of its obligation to support messages that their advertisements might reasonably convey – especially when the advertising disparages a competitor's product."

The case illustrates at least three key points. First, although we often vilify them, it's important to remember that monsters can have the same types of problems as the rest of us. Second, advertisers are responsible for all reasonable interpretations of their claims, even if they didn't intend to communicate some of them. And third, advertisers need to ensure that their claims are closely tailored to their substantiation. Even though a competitor's product may have a problem or your product may perform better than theirs, you still need to make sure that you don't inadvertently exaggerate the extent of the problem or the gap in performance.