

Insights: Alerts

Reflections on the 2025 NAD Advertising Law Conference

September 29, 2025

Written by Tywanda Harris Lord, Laura C. Miller, Bryan J. Wolin, Kristin M. Adams, Shreya P. Desai

The recent 2025 NAD Conference provided a deep dive into many areas of advertising law. While a few sessions discussed the obvious hot-button topic of the year—artificial intelligence—there were many other timely topics covered in both substantive and entertaining detail. As a long-time sponsor of the conference, Kilpatrick's Advertising and Marketing team prepared the following summary of the top advertising law issues covered at the conference.

1. Influencer Marketing. Influencer marketing continues to face heightened scrutiny, and recent NAD decisions highlight a few key lessons for brands. First, any relationship with an influencer—whether it's sending free products, reposting their content, or collaborating repeatedly—creates a “material connection” that requires clear and conspicuous disclosure. Second, relying on an influencer's celebrity status, professional reputation, or consumer fandom does not reduce the need for transparency; if consumers might view the content as an endorsement, the advertiser may be held responsible. Third, vague or buried hashtags like #gifted or a lone “sponsored” tag among multiple tags are not sufficient. Regulators expect brands to monitor influencer activity closely, correct unsupported claims, and ensure that disclosures are obvious to everyday consumers. Ultimately, the standard is whether viewers could reasonably understand the relationship—and if not, the brand risks enforcement.

2. NAD is Building a System to Support Influencer Trust in Our Ever-growing Influencer-Based Advertising Marketplace. NAD partnered with The Benchmarking Company to investigate consumer attitudes toward influencers, culminating in the 2025 Influencer Trust Index. The Index showed that 58% of consumers have made purchases based on influencer recommendations, but only 74% trust or somewhat trust influencer content (as compared to 87% for other forms of advertising). The Better Business Bureau's Center for Industry Self-Regulation is now working to close this gap. They are soliciting input from a range of stakeholders to help create a system to train influencers to comply with applicable rules, guidance, and regulations. Ultimately, they seek to issue certifications to influencers who have completed the training. This will provide brands and consumers with a valuable way to identify trusted influencers who understand and comply with applicable disclosure and other rules.

3. NAD Decisions as Persuasive Authority. NAD proceedings are an invaluable tool in promptly and cost-

effectively resolving disputes over whether a claim is substantiated. At this year's conference, we explored how and to what extent NAD decisions are subsequently used in federal court Lanham Act litigations. 138 reported federal court opinions have cited NAD decisions, with a largely upward trend in total citations from the 1990s onward. Federal courts generally treat NAD decisions as non-binding, persuasive authority. While federal courts will use NAD decisions to inform their analysis of whether claims are substantiated, or as evidence of industry practice or consumer perception, courts often limit the evidentiary weight of NAD decisions—with some courts excluding evidence of NAD decisions altogether as more prejudicial than probative. Given this trend, any brand considering filing a Lanham Act false advertising case should ensure that it takes stock of relevant NAD decisions—especially those that materially address disputed claims in any forthcoming lawsuit—and determine the extent to which the NAD decisions can be relied upon in a litigation.

4. Deep Dive into Claim Substantiation. An NAD conference would not be complete without a hypothetical, and very creative, marketing campaign used to elaborate on advertising law issues. Reviewing a fake sleep-assist product, one session went deep into how to conduct appropriate tests to substantiate product claims. From choosing the right methodology and ensuring the fit between the study and the support, to deciding whether benefits are clinically meaningful and ensuring appropriate use of placebos and blinding, this panel provided excellent processes for advertisers to utilize when conducting studies to support claims.

5. Those Impressionable Teens. The teen marketplace is a hotbed of commerce, confusion, and parental angst. The teen years are a key age for advertisers, as teens start forming potentially lifelong opinions of brands, making their own purchasing decisions, and moving away from their parents' constant oversight. And yet teens cannot even enter into binding legal contracts, join the military, nor drink alcohol. The questions around how advertisers should be able to market to and reach teens have long bedeviled society, and the laws and regulations around doing so can be tricky. This session provided some insights into how companies are threading the needle between treating teens as the independent decision makers they want to be and continuing to give parents the ability to oversee those decisions – all in a legally compliant manner.

6. Five Stars or Bust. As we approach the one-year anniversary of the FTC's Rule on the Use of Consumer Reviews and Testimonials, consumer reviews are everywhere—with approximately 95% of shoppers saying they consider reviews before making a purchase. The Rule prohibits a number of deceptive or unfair practices involving reviews, such as making or distributing fake or false reviews (including AI-generated reviews or reviews by people who did not actually use the product). Advertisers should inspect their practices to ensure that their review solicitation, moderation, publication, and repurposing practices are compliant with the Rule and are not otherwise deceptive. For example, reviews collected at the time of purchase, rather than after products were received, may deceptively inflate the average ratings since purchasers lacked time to actually use the products, and advertisers using AI to “edit” reviews should ensure that edited reviews are not presented out of context in a manner that distorts the reviewer's opinion.

As always, we look forward to next year's law conference to see what the rapidly advancing legal field of advertising law has in store for us. If you have any questions or concerns about advertising challenges at the NAD, or any advertising claims, please feel free to contact us. [Kilpatrick's Advertising and Marketing team](#).

Related People



Tywanda Harris Lord

t 404.745.2597

tlord@ktslaw.com



Laura C. Miller

t 336.607.7466

lamiller@ktslaw.com



Bryan J. Wolin

t 212.775.8735

bwolin@ktslaw.com



Kristin M. Adams

t 404.815.6138

kmadams@ktslaw.com



Shreya P. Desai

t 404.815.6032

spdesai@ktslaw.com