Insights: Alerts

NAD Rejects Substantiation for "SolaWave Advanced Skin Care Wand" in Monitoring Decision

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The National Advertising Division ("NAD") issued a new decision with helpful guidance for advertisers making performance claims about skincare products. NAD's review of advertiser SolaWave's substantiation for a wide range of claims was much more than "skin deep." Unfortunately for SolaWave, its substantiation failed the test.

NAD's decision was the result of its routine monitoring function. While many NAD decisions are the result of competitor challenges, NAD can also open challenges on its own. Advertisers are particularly likely to catch NAD's attention when making dramatic claims about popular products or services, as SolaWave did here.

According to SolaWave, its "Advanced Skin Care Wand" uses red-light therapy, galvanic current, facial massage, and therapeutic warmth to provide a range of consumer benefits. These include reducing the appearance of wrinkles, fine lines, dark circles, blemishes, and dark spots. SolaWave ads also included "before and after" images purporting to show the kinds of results a typical consumer would experience.

In response to NAD's challenge, SolaWave provided NAD with the results of an in-home use test, and additional information about its before-and-after images. NAD found four fatal flaws with the in-home use test. It lacked a "washout period," during which test subjects refrain from using products that could confer similar benefits as the tested product. Without a washout period, there is no way to tell if the test results are because of the SolaWave product or some other product. It also lacked controls to ensure test subjects weren't simply guessing about their subjective experiences. Finally, the test didn't match the industry-standard testing protocol, and the questions participants answered didn't match the language of the advertisements. NAD ultimately rejected the study in its entirety, finding that it did not support any of SolaWave's claims.

NAD also found flaws with SolaWave's before-and-after picture methodology. The pictures were not taken in a uniform manner, meaning there was no reliable "baseline" measurement to use as a comparison. The analysis of the before-and-after images was not done by an expert, so there was no guarantee of consistency across images. And SolaWave did not explain how it determined that the photos in its ads represented a "typical" user experience.

While this decision was certainly an unfortunate outcome for SolaWave, it provides invaluable guidance to advertisers in the cosmetic and skincare spaces, and beyond—a long list of what *not* to do if you want to survive an NAD challenge.

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





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