

The Ad Standard: Monthly Update

April 2026

The FTC is seeking public comment on two new proposed rules addressing price transparency, a rule on fee practices in the housing sector, as well as an updated rule on negative option plans (*i.e.*, or plans with ongoing charges to consumers unless they take action, such as a subscription). If enacted, the new rules would enable the FTC to seek monetary relief for rule violations, an important remedy in light of a recent decision from the Fifth Circuit. Earlier this month, in this decision the Fifth Circuit vacated an order resulting from the FTC’s administrative adjudication of false advertising claims, holding that the FTC’s use of its statutory administrative enforcement process on false advertising is unconstitutional. The Court reasoned that, based on the separation of powers in the Constitution, the FTC’s false advertising enforcement powers derive from common law fraud and, therefore, require adjudication in a court established under Article III of the Constitution. The FTC’s ability to seek monetary relief was recently limited to actions using its administrative adjudication process, so the Fifth Circuit decision creates a new obstacle for obtaining monetary relief in false advertising cases.

In class action litigation this month, courts in the Northern District of California, Northern District of Illinois, and Southern District of New York denied motions to dismiss false advertising cases on a variety of claims including a 100% juice product alleged to contain ascorbic acid, cage-free chickens alleged to be confined indoors, and oil-free products alleged to contain oil. The courts reasoned that plaintiffs sufficiently alleged that a reasonable person could find the statements to be misleading.

In cases reviewing claims for dietary supplements this month, the NAD held that claims phrased as structure function claims, like “supports heart health,” “supports brain health,” “helps support neuronal health associated with healthy aging,” and “supports healthy sperm,” conveyed a broader message that the product provides a functional benefit, a message it determined was not supported by ingredient level testing on the product. In a different case, however, NAD concluded that product testing supported anxiety claims in a dietary supplement targeted to children but did not support claims related to a reduction in activity levels.

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FTC Focus

FTC Enforcement Activity Related to Small Business

1. The FTC secured a settlement against Xponential Fitness, Inc. and related entities for Franchise Rule in an action alleging violations and related misleading practices arising from their sales of franchises for popular fitness studios brands. The FTC alleged that defendants misrepresented key information about the costs, risks, and time to open and operate studios, and failed to disclose that a key executive had repeatedly been sued for fraud. The FTC further alleged that defendants omitted the names of franchisees who had a studio that ceased to do business or was terminated, cancelled, or not renewed during the previous year, as required by the Franchise Rule, or disclosed outdated franchisee contact information. The settlement includes \$17 million that will be returned to franchisees and a prohibition on making misrepresentations to prospective franchisees in the promotion, sale, or offering for sale of any franchise.

[FTC Secures Settlement Against Xponential Fitness for Franchise Rule Violations | Federal Trade Commission](#)

2. Under a settlement with the FTC, Air AI and its operators will be banned from marketing business opportunities following charges that the company misled entrepreneurs and small businesses with deceptive claims about business growth, earnings potential, and refund guarantees. The complaint alleged that defendants falsely claimed that people who purchase their services will or are likely to make substantial earnings, falsely claimed that purchasers were protected by a refund or buy-back guarantee, and violated the Telemarketing Sales Rule and the Business Opportunity Rule.

[Air AI and its Owners will be Banned from Marketing Business Opportunities to Settle FTC Charges the Company Misled Many Entrepreneurs and Small Businesses | Federal Trade Commission](#)

FTC Activity on Fees and Subscription Marketing Practices

1. The FTC is seeking public comment on an Advance Notice of Proposed Rulemaking (ANPRM) relating to the current Negative Option Rule, whether and how the Commission should address negative option marketing, whether the current rule should be amended, and potential regulatory alternatives to address deceptive or unfair negative option practices. In a negative options plan, a consumer's failure to take action constitutes consent to be charged for goods or services. Such practices can offer procompetitive features but can also harm consumers when companies make misleading or inadequate disclosures, bill consumers without their consent, or make cancellation difficult or impossible. Once the ANPRM has been published in the Federal Register, consumers can submit comments electronically for 30 days.

[FTC Seeks Public Comment in Response to Advance Notice of Proposed Rulemaking Regarding Negative Option Marketing Practices | Federal Trade Commission](#)

2. The FTC is also seeking public comment on an ANPRM to address potential unfair or deceptive fee practices in connection with rental housing throughout the lease lifecycle, from application to moveout. The ANPRM asks for comments on: (i) whether a rule is needed to prevent unfair or deceptive fee practices; (ii) whether rental

providers clearly and conspicuously disclose the true total rent and the amount, refundability, optionality and recurrence of fees or charges; and (iii) any harmful practices relating to application fees, security deposits, and billing issues. Once the ANPRM has been published in the Federal Register, consumers can submit comments electronically for 30 days.

[FTC Seeks Public Comment on a Proposed Rulemaking Regarding Unfair or Deceptive Rental Housing Fee Practices | Federal Trade Commission](#)

3. The FTC sent warning letters to 97 auto groups nationwide, encouraging dealers to review their advertising and pricing practices, including ensuring that their advertised prices are the total prices, including all mandatory fees consumers will be required to pay when buying a vehicle. Christopher Mufarrige, Director of the FTC's Bureau of Consumer Protection stated that "The FTC will remain focused on monitoring auto dealerships to ensure that the market functions efficiently and competitors are transparently competing on price."

[FTC Warns 97 Auto Dealership Groups About Deceptive Pricing | Federal Trade Commission](#)

FTC Enforcement Issues

1. The Court of Appeals for the Fifth Circuit reviewed the FTC's administrative order stopping TurboTax from advertising its tax filing service as "free" and vacated the order. The Court determined that the Constitution requires the FTC to litigate false advertising enforcement actions in federal court, rather than using its administrative procedures to bring an action before an administrative law judge. While the decision is now limited to FTC enforcement of false advertising allegations in the Fifth Circuit, future administrative enforcement actions are likely to see companies raising constitutional objections to false advertising enforcement actions. As a result, the FTC might forgo its administrative enforcement mechanism that is currently its only path for seeking monetary relief where it is not alleging a violation of an FTC rule or statute.

[Intuit, Inc. v. FTC, No. 24-60040, 2026 U.S. App. LEXIS 8362 \(5th Cir. Mar. 20, 2026\)](#)

2. Shortly after the Commission's loss in *Intuit, Inc.*, the FTC Chair Ferguson issued a statement, joined by Commissioner Meador, calling for Congress to enact legislation authorizing the FTC to obtain equitable monetary redress for consumers. The statement, a concurring statement in the joint action of the FTC and the State of Maryland alleging that auto prices were deceptively advertised without disclosure of added fees and other charges, Chair Ferguson recognized that the FTC "generally lacks statutory authority to obtain monetary relief for consumers for fraud and other misconduct that violates Section 5 (as opposed to a Commission rule)" and noted that "Congress can fix that problem. It can enact legislation authorizing the FTC to obtain equitable monetary redress for consumers along the same lines that it did many times with great success before *AMG Capital Management*. By doing so, Congress would give the Commission one of the most powerful anti-fraud tools available—restoring to injured consumers what was taken from them by deceit, omission, or unfair conduct, as well as requiring wrongdoers to return the profits they obtained by breaking the law."

[Concurring Statement of Chairman Andrew N. Ferguson Joined by Commissioner Mark R. Meador Regarding Lindsay Automotive Group](#)

Class Actions

Privacy Claims

Technology company Meta Platforms, Inc. and eyewear company Luxottica of America Inc. were sued in a putative class action alleging that they advertised and sold “smart” glasses integrated with cameras and AI software as “designed for privacy, controlled by you” and “built for your privacy” but failed to disclose to consumers that footage from the glasses is viewed and catalogued by overseas workers. Among other statutory claims, plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Tittl v. Meta Platforms, Inc., No. 3:26-cv-01992 (N.D. Cal. Mar. 8, 2026)

“Sustainable” Food Claims

Target Corp. was sued in a putative class action alleging that it labels its Good & Gather Tuna Products as “Sustainably Caught” and “wild caught using sustainable practices” but that the tuna are caught using unsustainable fishing practices that harm ocean habitats and marine life. Plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law and violations of various state consumer protection statutes.

Kim v. Target Corp., No. 2:26-cv-02910 (C.D. Cal. Mar. 18, 2026)

Ingredient-Based Claims

Protective gear manufacturers were sued in a putative class action alleging that their equipment for firefighters contains PFAS, that they participated in an enterprise to suppress negative scientific research on PFAS, and that they made misleading statements to the public about the safety of the PFAS in the gear. Among other things, plaintiff asserts RICO claims, and violations of California’s False Advertising Law and Unfair Competition Law, and various state consumer protection laws.

County of San Mateo v. 3M Co., No. 3:26-cv-02380 (N.D. Cal. Mar. 18, 2026)

P.F. Harris Manufacturing Company, LLC and PurposeBuilt Brands, Inc. were sued in a putative class action alleging that they label their “Safe Melt” ice-melting salt as “Pet Safe” but that it, in fact, is composed entirely of magnesium chloride, which is dangerous for pets. Plaintiffs further allege that while defendants only intend the “Pet Safe” label to mean that the product is safer for pet paws than other company’s jagged salt products that this is deceptive because the label does not clarify this limitation and according to surveys show consumers believe “Pet Safe” products are harmless for pets to consume and touch. Plaintiffs assert violations of New York General Business Law Sections 349 and 350.

Kalayci v. P.F. Harris Mfg. Co., No. 1:26-cv-02827 (N.D. Ill. Mar. 13, 2026)

M.I. Industries, Inc. was sued in a putative class action alleging that it falsely advertised its Original Real Recipe dog foods, Raw Meals dog foods, and Raw Boost Mixers dog foods as “Made Without ... Artificial Preservatives” and “Nothing

Artificial” when the products in fact contain artificial preservatives. Plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Flick v. M.I. Indus, Inc., No. 3:26-cv-01470- (S.D. Cal. Mar. 9, 2026)

Nature’s Bakery, LLC was sued in a putative class action alleging that it represents to consumers through its brand name that its snack bars are natural, wholesome and healthy but they are not because they contain synthetic citric acid and excessive amounts of sugar. Plaintiffs assert violations of New York General Business Law Sections 349 and 350.

Himmel v. Nature’s Bakery, LLC, No. 1:26-cv-01439 (E.D.N.Y. Mar. 12, 2026)

Martin & Pleasance North America, Inc. was sued in a putative class action alleging that it misbrands and falsely advertises its Ener-C Sugar-Free Multivitamin Drink Mixes as “All Natural” while they, in fact, contain synthetic ingredients derived from petroleum substrates. Plaintiffs assert violations of the Washington Consumer Protection Act.

Cabrera v. Martin & Pleasance N. A., Inc., No. 2:26-cv-00991 (W.D. Wash. Mar. 24, 2026)

Hypoallergenic Claims

Kimberly-Clark Corp. was sued in a putative class action alleging that it falsely advertises its Huggies Little Movers Diapers as “hypoallergenic,” “made for sensitive skin,” and free of “harsh irritants” but that the product in fact contains ingredients that cause, or risk causing, severe allergic reactions. Plaintiff asserts violations of New York General Business Law Sections 349 and 350. Previously, a similar putative class action was filed against Kimberly-Clark Corp. *See Burns v. Kimberly-Clark Corp.*, No. 1:25-cv-01662 (N.D.N.Y. Nov. 25, 2025).

Rojas v. Kimberly-Clark Corp., No. 1:26-cv-01331 (E.D.N.Y. Mar. 6, 2026)

Amazon.com Services LLC has been sued in two putative class actions alleging that it falsely labels its Amazon Basics Hypoallergenic Body Wash for Sensitive Skin as “hypoallergenic” but the product, in fact, contains allergen-causing fragrance chemicals.

King v. Amazon.com Servs LLC, No. 1:26-cv-01062 (S.D.N.Y. Feb. 6, 2026) (asserting violations of New York General Business Law Sections 349 and 350)

Albrigo v. Amazon.com Servs LLC, No. 2:26-cv-00844 (W.D. Wash. Mar. 12, 2026) (asserting violation of the Washington Consumer Protection Act)

Faster Pickup Claims

Uber Technologies, Inc. was sued in a putative class action alleging that it falsely advertises its UberX service as having precise and “faster” arrival times but that the rides frequently do not arrive when they are promised and that the rides take as long as—or even longer—to arrive than Uber’s Wait & Save option. Plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Ye v. Uber Techs, Inc., No. 3:26-cv-01744 (N.D. Cal. Feb. 27, 2026)

Discount Claims

Online retailer Snapfish, LLC was sued in a putative class action alleging that it lists all of its products as having discounts ranging between 30%-70% off but they are actually false discounts because the products are never actually sold at the higher strikethrough reference prices listed next to the “sale” price. Among other claims, plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Haratyk v. Snapfish, LLC, No. 5:26-cv-01753 (N.D. Cal. Feb. 27, 2026)

Return Policy Claims

Online retailer Wayfair Inc. was sued in a putative class action alleging that it deceptively advertises a “30-Day Returns” policy for its merchandise without disclosing that certain items are non-returnable. Plaintiff asserts violations of California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

Stansfield v. Wayfair Inc., No. 26STCV09347 (Cal. Super. Ct. Mar. 23, 2026)

Medical Testing and Treatment Claims

Genomic Prediction, Inc. and Genomic Prediction Clinical Laboratory were sued in a putative class action alleging that they make a variety of false and misleading representations to consumers concerning their genetic testing, including, among other things, that it is the most advanced genetic screening available, lowers miscarriage rates, reduces the number of cycles of IVF needed, increases chances of a successful pregnancy and is 98-99% accurate because scientific studies contradict these claims and defendants lack a valid and proven scientific basis to support and validate the claims. Among other claims, plaintiff asserts violations of California’s Consumer Legal Remedies Act and Unfair Competition Law, Florida’s Deceptive and Unfair Trade Practices Act, and Pennsylvania’s Unfair Trade Practices and Consumer Protection Law.

Anderson v. Genomic Prediction, Inc., No. 3:26-cv-02860 (D.N.J. Mar. 19, 2026)

QC Franchise Group, LLC, Regencare 1142, LLC, and Med-Den Funding, LLC were sued in a putative class action alleging that they advertise “regenerative” and “stem cell” injections as proven, accessible alternatives to surgery and cures for chronic pain but, in fact, the FDA has not approved these products for pain management. Plaintiff further alleges that defendants advertise “0% Interest” and “Payment Plans starting as low as \$100 per month” but actually charge interest rates exceeding 9.99% and impose additional fees on consumers. Plaintiff asserts violations of Florida’s Deceptive and Unfair Trade Practices Act.

Estrada v. QC Franchise Group, LLC, No. 1:26-cv-21895 (S.D. Fla. Mar. 23, 2026)

Recent District and State Court Actions Denying Early Relief

Northern District of California: Denies Dismissal Concluding Reasonable Consumer Could Be Deceived By “100% Juice” Label

A federal district court largely denied dismissal in a putative class action alleging that Tree Top Inc. violated California’s Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law by mislabeling its products as “100% Apple Juice” or “100% Juice” because the Vitamin C (ascorbic acid) added to the products is not derived from apples. Noting that the claims are generally governed by the reasonable consumer test, the court held that plaintiff plausibly alleged that the ascorbic acid added to the products is not derived from apples, therefore, a reasonable consumer could be deceived by the labeling because the products are not “100% Apple Juice” or “100% Juice.” The court explained that it is reasonable to infer from plaintiff’s allegations that the ascorbic acid added to the challenged products is not made from apples where plaintiff alleges that a USDA report states that “all commercial ascorbic acid is synthetically produced,” and “that ascorbic acid is often derived from corn starch, corn sugar or rice starch” and Tree Top itself stated in a Quality Compliance Summary that ascorbic acid is “derived from a multi-step process that typically begins with corn.”

Borowsky v. Tree Top, Inc., No. 25-cv-05533, 2026 U.S. Dist. LEXIS 54517 (N.D. Cal. Mar. 16, 2026)

Northern District of Illinois: Denies Dismissal of Consumer Protection Claims Concerning Cage Free Eggs

In a putative class action alleging that it was deceptive for Egglan’s Best to represent on their packaging that their eggs are “cage free,” and that their hens are “free to roam in a pleasant, natural environment” when the hens are kept in “windowless compounds,” a federal district court denied dismissal of plaintiff’s claims under various state consumer protection laws, including California and New York. Explaining that such claims require a plaintiff to allege that the ad misleads a reasonable consumer, the court concluded that plaintiffs plausibly alleged that a reasonable person would understand the claim “free to roam” in a “natural” and “pleasant” environment together with the assertion that the hens are not kept in cages to mean that the hens would have some outdoor access. While noting defendants’ assertion that the hens are, in fact, cage free, the court concluded that plaintiff sufficiently alleged that a reasonable person could find the statement to be misleading, because the “cage free” designation does not correct the potential takeaway that the hens are free to roam in a natural environment.

Janecyk v. Egglan’s Best, Inc., No. 24-cv-06222, 2026 U.S. Dist. LEXIS 41459 (N.D. Ill. Feb. 27, 2026)

Northern District of Illinois: Denies Dismissal of ICFA Claim Alleging That “Oil-Free” Skincare Product Labels Were Misleading

A federal district court denied dismissal of allegations that Kenvue Brands LLC violated the Illinois Consumer Fraud and Deceptive Business Practices Act (ICFA) by falsely labeling its Neutrogena Clear Face Oil-Free Sunscreen and Clean and Clear Dual Action Moisturizer as oil-free. The court concluded that plaintiff adequately pleaded that Kenvue misled reasonable consumers by labeling the products as “oil-free.” Rejecting Kenvue’s assertion that plaintiff failed to allege what “oil-free” means to a reasonable consumer, the court pointed to plaintiff allegations that she “like any reasonable consumer, understands oils to be substances that look, feel, and interact with water the way common oils . . . do,” that when buying oil-free products she expected they would not contain any substances that could be characterized as oils.

Flaherty v. Kenvue Brands LLC, No. 1:20-cv-07255, 2026 U.S. Dist. LEXIS 63165 (N.D. Ill. Mar. 25, 2026)

Northern District of Illinois: Denies Dismissal of Kids’ Mouthrinse Action; Grants Dismissal of Kids’ Toothpaste Action

In three related putative class actions, plaintiffs alleged that Colgate-Palmolive Co. and Tom’s of Maine, Inc. violated the Illinois Consumer Fraud and Deceptive Business Practices Act by making false and misleading representations that their fluoride-containing mouthrinses and toothpastes are for use by all children when, in fact, they are contraindicated for children under the age of six. The district court denied defendants’ motions to dismiss the mouthrinse actions, finding the plaintiff adequately alleged that a reasonable consumer would be misled, noting the front labels’ use of the word “kids” or “children’s,” the use of cartoons and popular characters, the mouthrinses’ fruit- or candy-like flavors, and the use of “cutesy language” to describe the flavors. By contrast, the court granted dismissal of the toothpaste action alleging that defendants misleadingly induced parents to use more toothpaste than recommended for their children under six noting that the toothpastes expressly instructed on their back labels that children between the ages of two and six should brush only with a pea-sized amount and further stated that plaintiffs read too much into the packaging and that “[c]onsumers cannot impose content that isn’t there, and impute meaning that is not fairly derived from the labeling itself.”

Harden v. Colgate-Palmolive Co., No. 25-cv-00362, 2026 U.S. Dist. LEXIS 65974 (N.D. Ill. Mar. 27, 2026)

Eastern District of New York: Denies Dismissal of Misrepresentation-Based Claims For Kids’ Toothpaste

A federal district court denied dismissal of claims alleging Tom’s of Maine, Inc. misleadingly advertised its Kid’s Natural Fluoride-Free Toothpaste Silly Strawberry and Toddler Natural Fluoride-Free Toothpaste Mild Fruit products as “healthy toothpastes for kids” without disclosing to consumers that they are contaminated with unsafe levels of lead or arsenic. Explaining that to determine whether an act or advertising is misleading, the standard is whether a reasonable consumer could be misled, the court concluded that the allegations bring the claim of deception within the realm of plausibility. The court stated that plaintiff adequately alleged a price-premium theory by alleging that the products were not safe for use and did not have the marketed quality plaintiff purchased them for and that plaintiff purchased more or paid more for the toothpaste than he would have had they not been marketed as safe or healthy for kids.

White v. Tom’s of Maine, Inc., No. 25-CV-00662, 2026 U.S. Dist. LEXIS 50478 (E.D.N.Y. Mar. 11, 2026)

Western District of Washington: Denies Motion to Stay Supplement Labeling Class Action

A federal district court denied defendant Amazon.com Services, LLC’s motion to stay pending completion of FDA rulemaking in a class action alleging that Amazon violated federal supplement labeling requirements by selling dietary supplements without mandatory disclaimers. Amazon moved to stay proceedings contending that the FDA will soon revise 21 C.F.R. § 101.93(d) to remove the disclaimer requirement, and thus the case should be stayed under the doctrine of primary jurisdiction. To determine if the doctrine should be invoked such that initial decision-making should be performed by the relevant agency rather than the courts, the court reasoned that there is no issue for the agency to resolve because compliance with labeling requirements is an issue that federal courts regularly address, that there is no novel issue that needs to be addressed in the first instance by the FDA, and that regulations are not presumed to apply retroactively, and this retroactivity principle protects the accrued claims, even if the FDA revises Section 101.93(d).

Medal v. Amazon.com Servs, LLC, No. 2:23-cv-01975, 2026 U.S. Dist. LEXIS 41129 (W.D. Wash. Feb. 27, 2026)

NAD Focus

Satellite Coverage Claims

On appeal, an NARB panel recommended that T-Mobile US, Inc. discontinue or modify certain express and implied satellite coverage claims for its T Satellite service. At issue for NARB were T-Mobile's claims that "If customers can see the sky, they're connected [to T Satellite]" and "No matter where you are, you will never miss a moment," as well as implied claims that T Satellite provides 100% coverage everywhere or everywhere the sky is visible. The NARB panel concluded that NAD reached the correct conclusion that the challenged claim language conveys that the coverage available from T-Satellite is universal. As NAD noted, consumers are likely to be unfamiliar with emerging satellite technology, and accordingly advertisers must exercise caution to avoid overstating the extent of satellite coverage. The panel recommended T-Mobile discontinue the challenged express claims, including "If customers can see the sky, they're connected [to T-Satellite] – even in the areas no traditional cellular network reaches today" and "No matter where you are, you will never miss a moment [with T-Satellite]" and that T-Mobile modify its advertising to avoid conveying that T-Satellite provides 100% coverage everywhere and that T-Satellite provides 100% coverage everywhere the sky is visible.

T-Mobile US, Inc. (T-Mobile Wireless Communication Services), Report #7458-344, *NARB Case* (Feb. 2026)

“Unlimited” Claims

Following a challenge brought by wireless service competitor Mint Mobile, LLC, NAD determined that RedPocket, Inc. had a reasonable basis for its “no price increases ever” claim, finding that the record substantiated that practice. However, NAD recommended that RedPocket modify or discontinue certain “unlimited” claims and claims regarding coverage on three major 5G networks. As to RedPocket's claims that certain wireless plans are “unlimited” or offered “unlimited talk, text, and data,” NAD concluded that RedPocket's unlimited data claims were unsupported because customer data speeds are reduced in certain plans after consumers reach their relevant 5G cap and there was no evidence that consumers who reach this cap could continue to engage in typical online activities consistent with reasonable consumer expectations at the lower throttled speeds. Thus, NAD recommended that RedPocket discontinue the challenged claims or modify them to clearly and conspicuously communicate, in the main claim, that high-speed data is capped under certain plans and that data speeds are reduced to 512 kbps once the cap is reached. NAD also recommended that RedPocket discontinue the challenged claims that consumers “get coverage on 3 major 5G networks” and are offered “3 Major 5G networks for ultimate coverage” because RedPocket offers only the choice of coverage on one of the three major 5G networks and does not provide simultaneous access.

Red Pocket, Inc. (RedPocket Mobile Wireless Service Plans), Report #7524, *NAD/CARU Case Reports* (Feb. 2026)

Supplement Claims

Following a challenge from competitor Reus Research LLC, NAD recommended that Niagen Bioscience, Inc. discontinue its claims that its Tru Niagen dietary supplement is “clinically proven to significantly increase NAD+ levels, and help maintain them with daily use,” and its claim that NAD+ levels rise within hours and show significant increases within two weeks of supplementation, because although the record included studies demonstrating that the product's active ingredient can increase NAD+ levels under certain conditions, NAD concluded that differences in study design,

populations, duration, endpoints, and conditions of use limited the extent to which the evidence supported the broad “clinically proven” claim. For claims like “supports heart health,” “supports brain health,” and “supports cellular energy production in immune cells,” “supports cellular energy production in muscle tissue during exercise,” and “helps support neuronal health associated with healthy aging,” NAD recommended that the claims be discontinued or modified because NAD concluded the claims convey a message of functional benefit but the record did not substantiate functional benefits reasonably conveyed, including cardiovascular, cognitive, immune, metabolic, exercise, anti-aging, or cellular repair-related outcomes. In its advertiser statement, Niagen stated that it “will appeal NAD’s decision.”

Niagen Bioscience, Inc. (Tru Niagen Nicotinamide Riboside Dietary Supplement), Report #7487, *NAD/CARU Case Reports* (Mar. 2026)

After an initial NAD decision following a challenge by competitor Bayer HealthCare LLC, NAD recommended that OLLY PBC modify claims that its Kids Chillax dietary supplement supports a calm and relaxed mood to avoid conveying the unsupported message that it reduces children’s anxiety and activity levels. NAD concluded that OLLY’s study was not a good fit for the challenged express claims (that Kids Chillax can calm kids and make them stay engaged) because, among other things, NAD found the assessments used to assess anxiety levels were not reliable for the youngest study participants, a finding that was affirmed by NARB on appeal. At OLLY’s request, NAD reopened the matter to consider new evidence from OLLY. In support of its modified claims targeting children ages seven and older, OLLY submitted a post-hoc analysis of the Chillax Study limited to children ages seven through fifteen. NAD found that this analysis was unreliable to support claims related to activity because the study did not measure children’s activity levels. NAD further found that one of the scales that assessed anxiety was reliable and could support the message that the supplement reduces children’s anxiety levels.

OLLY PBC (Kids Chillax & Kids Multi + Probiotic), Report #7350RO, *NAD/CARU Case Reports* (Feb. 2026)

Following a challenge by competitor OLLY PBC, NAD recommended that Bayer HealthCare LLC discontinue or modify certain claims for its One A Day® Men’s Pre-Conception Health Complete Multivitamin, including claims that the product “supports healthy sperm.” NAD found that the context of the advertising claims reasonably conveyed a message that the product will improve chances of conception or improved sperm quality. NAD determined that the advertiser’s evidence related to the role of nutrients in sperm health did not support the reasonably conveyed message of improved fertility or sperm quality and recommended that Bayer discontinue or modify these claims. As to the claim that the product contains “powerful antioxidants” including Lycopene, NAD recommended that Bayer discontinue or modify the claim because the evidence did not support the messages that Lycopene exhibits powerful antioxidant activity in the product. NAD also concluded that in the absence of extrinsic evidence demonstrating consumer confusion caused by Bayer’s use of “complete multivitamin” in the product name it would not recommend a product name change.

Bayer HealthCare LLC (One A Day® Men’s Pre-Conception Health Complete Multivitamin), Report #7535, *NAD/CARU Case Reports* (Mar. 2026)

Supplement Company to Be Referred to Regulators

Following a challenge brought by competitor Reus Research LLC, NAD recommended that Iron Rock Ventures LLC modify or discontinue certain claims for its thinbi NAD+ dietary supplement. The challenged claims related to the product’s ingredient content. NAD found that consumers are likely to interpret the “8,457MG” statement on the front label and advertising as conveying the message that the product contains 8,457 mg of active dietary ingredients per capsule. Among other things, NAD recommended that Iron Rock discontinue this claim and avoid conveying this message because while the product’s Supplement Facts Panel (SFP) had the product’s actual ingredient amounts, NAD found that the SFP

cannot effectively qualify an express claim when it contradicts that claim. As Iron Rock did not confirm that it will comply with NAD’s recommendations, it will be referred to the appropriate regulatory authorities for review and possible enforcement action.

Iron Rock Ventures LLC (thinbi NAD+ Dietary Supplement), Report #7522, *NAD/CARU Case Reports* (Mar. 2026)

“Human Grade” Dog Food Claims

In a Fast-Track SWIFT case, initiated by The Farmer’s Dog, NAD found certain Freshpet, Inc. claims supported, but recommended that others suggesting that its dog food is “human grade” be discontinued. During the challenge, Freshpet informed NAD that it was permanently modifying its claim “How does Freshpet make healthy food for dogs? The same way you make healthy food for people” to remove the second sentence. NAD determined that, as modified, the commercial does not convey a message that Freshpet dog food is human grade. As to a social media ad where a dog owner states “We eat fresh, real food as much as possible at home, so of course, we want the same for Benji. That’s why we give him Freshpet Fresh from the Kitchen Home Cooked Chicken Recipe” and that Freshpet dog food is “made with the same level of quality I want in my own food,” NAD determined that these claims conveyed that Freshpet dog food is human grade and recommended Freshpet discontinue the claims. By contrast, for a video depicting food being prepared in a home kitchen while Freshpet dog food is later served to a dog, NAD determined that the ad did not convey that Freshpet dog food is human grade because it shows the dog being served its own meal from a package of Freshpet taken from the refrigerator.

Freshpet, Inc. (Freshpet Dog Food), Report #7546, *NAD/CARU Case Reports* (Mar. 2026)

“Fiber-Powered” Internet Service Claims

In a Fast-Track SWIFT case, brought by AT&T Services, Inc., Charter Communications, Inc. d/b/a Spectrum voluntarily modified disclosures in connection with its “Fiber-Powered” claims. At issue was whether Spectrum’s “Fiber-Powered” claims in its video and website advertising, conveying a message that Spectrum Internet service is delivered to subscribers via a fiber-to-the-home infrastructure, required disclosure modification. In the ads, Spectrum used a small-text written disclosure stating that “Spectrum Internet is powered by fiber and delivered to the home via HFC.” HFC is an abbreviation for “hybrid fiber-coax,” which is distinct from “Fiber To The Home.” Spectrum agreed to modify its advertising by permanently discontinuing its reference to “HFC” in its disclosures and to clearly and conspicuously disclose that Spectrum’s fiber-powered internet services are not delivered to customers’ homes over a fiber-to-the-home infrastructure.

Charter Communications, Inc. (Spectrum Home Internet), Report #7553, *NAD/CARU Case Reports* (Mar. 2026)

AI-Related Claims

NAD and CARU brought a joint inquiry and found that Dorel Juvenile Group, Inc.’s express claims regarding the performance, functionality, and privacy protections of its CryAssist technology, used in the Maxi-Cosi Sibia Bassinet and Starling Smart Bassinet, are supported. At issue were Dorel’s claims that its CryAssist technology uses AI to translate infant cries into categories (sleepy, fussy, gassy, agitated, or hungry) and that this cry data is anonymized, encrypted, and processed securely. In support of its claims, Dorel provided peer-reviewed published research documenting and validating the underlying AI model, as well as evidence demonstrating calibration and performance of the technology in the devices. NAD concluded that there was support for the following claims: “Our groundbreaking CryAssist™ technology uses AI to

translate your little one’s cries, letting you know if they might be sleepy, fussy, gassy, agitated, or hungry,” and “Each of CryAssist’s response-based features are optional, ensuring control is always in your hands.” Based on Dorel’s explanation and documentation of its data collection and retention practices related to cry sounds, NAD found that there was support for the following claim, “With cries and cry data kept anonymous and encrypted on our cloud, private moments are kept between you and baby.”

Dorel Juvenile Group, Inc. (Maxi-Cosi Sibia Bassinet and Starling Smart Bassinet), Report #7485, *NAD/CARU Case Reports* (Feb. 2026)

Health Test Claims

In an NAD inquiry, NAD recommended Viome Life Sciences, Inc., which develops various health tests, including the CancerDetect® Oral & Throat at Home Test (CDOT), modify or discontinue claims related to comparative sensitivity and messages conveyed about cancer diagnosis. Sensitivity measures a test’s ability to elicit true positive results for those who have the disease and specificity measures the test’s ability to elicit true negative results where for individuals who do not have the disease. As to the claim that the CDOT Test has “substantially higher sensitivity and specificity over conventional oral exam,” NAD found the evidence provided had limited applicability in quantifying the performance of conventional oral exams and, therefore, NAD recommended that Viome discontinue the claim but noted that it could make a monadic claim concerning the high sensitivity and specificity of its test to detect early-stage oral and throat cancer biomarkers. NAD also determined that the claim “CancerDetect Oral & Throat is the first at-home test of its kind to detect biomarkers associated with early-stage oral and throat cancer” was supported as the record did not identify any other commercially available at-home tests designed to detect biomarkers associated with early-stage oral and throat cancer. Also as lay consumers may not distinguish between the detection of a biomarker and detection of cancer, NAD recommended that Viome make clear near any claim regarding detection of biomarkers (*i.e.*, “Detect biomarkers associated with early-stage oral & throat cancers”), that the CDOT Test does not itself diagnose early-stage oral or throat cancer.

Viome Life Sciences, Inc. (Viome CancerDetect® Oral & Throat At Home Test), Report #7491, *NAD/CARU Case Reports* (Mar. 2026)

Dosing Interval Claims

Following a challenge brought by competitor Elanco Animal Health Inc., NAD determined that Intervet, Inc. (d/b/a Merck Animal Health) had a reasonable basis to support the claim that its Bravecto Quantum injectable flea and tick product is “a safe, effective way to protect dogs year-round.” However, NAD determined that certain Merck claims—including “365 days of protection, all in one dose,” either explicitly or implicitly linked a year-long time period to a single administration, conveying that the product needs to be administered only once annually. As FDA-approved labeling for the product requires an eight-month dosing interval for dogs with potential exposure to the lone star tick, NAD determined that an unqualified once-a-year dosing message was not supported and that the disclosures used were not sufficiently clear or conspicuous to qualify the main claims. Therefore, NAD recommended that Merck discontinue the challenged claims or modify them to clearly communicate the eight-month dosing interval for dogs with potential exposure to lone star ticks. Merck has stated that it “respectfully appeals NAD’s decision in part.”

Intervet, Inc., d/b/a Merck Animal Health (Bravecto® Quantum Product for Dogs), Report #7519, *NAD/CARU Case Reports* (Feb. 2026)

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** In February 2026, Simpson Thacher announced plans to expand its presence in Texas with an office in Dallas.*

*** In April 2026, Simpson Thacher announced plans to expand its presence in Asia with an office in Singapore.*

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