Simpson Thacher

The Ad Standard: Monthly Update



November 2026

It was a busy month at the FTC. In addition to continuing its enforcement push on price transparency, the agency ordered major retailers to provide information on the use of personal data to set prices, a practice known as "algorithmic," "personalized" or "surveillance" pricing. Whatever you call it, the practice is drawing increasing scrutiny at both the federal and state levels. For more on this, see What marketers should know about the legal risks of algorithmic pricing, by *The Ad Standard: Monthly Update* co-author Laura Brett, including practical steps companies can take to avoid crossing the line.

Advertising class action litigation shows no signs of slowing, and California's federal courts remained a favored venue. So it is no surprise that California courts are providing much of the guidance on whether front-of-label claims can be clarified by a disclosure. In a recent decision, a court granted summary judgment, finding that an ambiguous claim on the front of a label could be clarified by a disclosure on the side panel.

Meanwhile, NAD is not leaving price transparency entirely to the FTC and the Courts. This month, it closed two monitoring cases involving price transparency in the cruise industry.

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FTC Focus

FTC Enforcement Activity

1. A federal court recently entered a $106.8 million default judgment against the operators of an alleged debt relief scheme that targeted seniors and veterans by impersonating banks, credit card companies, and government agencies; falsely claimed that they could reduce consumers' debt by as much as 75% or more; and collected illegal advance fees. The FTC alleged that the operators, including Accelerated Debt Settlement Inc., contacted consumers through telemarketing calls or in response to calls that resulted from their direct-mail and online ads. Among other things, the order bans the corporate and individual defendants from the debt relief industry and from impersonating any government entity, business, or person.

   Court Permanently Shuts Down Illegal Debt Relief Operation Following FTC Allegation That Scheme's Operators Impersonated Government and Business Entities | Federal Trade Commission

2. The FTC sued GovAssist LLC, Entry LLC and Scott Zuckerman, for their alleged involvement in a government impersonation scheme that deceived consumers seeking passport services by purporting to be the federal government or affiliated with the federal government, in violation of the FTC Act, the Impersonation Rule and the Gramm-Leach-Bliley Act. The FTC alleges that defendants use deceptive paid search ads to lure travelers to their websites, made them false service promises to obtain their financial and personal information, and concealed their scheme from consumers with fake positive consumer reviews.

   FTC Sues Perpetrators of Government Impersonation Scheme Over Deceptive Ads, Misleading Promises and Fake Reviews | Federal Trade Commission

3. Greenway Auto Group has agreed to prominently include the actual price a consumer must pay for a vehicle in its price advertisements, excluding only charges the government requires consumers to pay, to settle an FTC lawsuit alleging that it advertised prices that were thousands of dollars below what it actually charged. According to the FTC, in over 92% of transactions Greenway inflated the amount it charged consumers by tacking on to the advertised price mandatory fees, packages, and penalties. The proposed order prohibits Greenway from sending deceptive prize mailers that lured customers with nonexistent cash prizes, and bans specific misrepresentations, including whether charges, fees, taxes, products or services are optional or required.

   FTC Secures Settlement with Auto Dealership Group in Price Transparency Win for Consumers | Federal Trade Commission

4. Under a proposed settlement, Premier Franchising Group LLC (PFG) and its former franchise sales organization, Franchise Fastlane LLC (FFL), will pay $1.85 million to settle FTC allegations that they made misleading representations about the Premier Martial Arts (PMA) franchise opportunity and violated the Franchise Rule. PFG and FFL allegedly deceptively claimed that non-martial artists could profitably operate one or multiple franchises on a semi-absentee basis working less than 15 hours a week. According to the FTC, more than 200 consumers, including veterans, paid PFG an initial franchise fee of $49,500 or more to purchase a franchise opportunity and incurred hundreds of thousands of dollars in additional expenses to build out and operate their studios, with many assuming significant debt. The complaint further alleged that PFG also deceived prospective

franchisees by reporting in its Franchise Disclosure Documents that its existing studios earned significant income but lacked a reasonable basis to know whether those earnings were representative of what new PMA franchisee studios could earn due to material differences between existing studios and prospective studios. For example, many existing franchisees had studios larger than what PFG recommended and existing franchisees had significant martial arts experience compared to most new franchisees with no martial arts experience.

Premier Martial Arts Franchisor and its Former Franchise Sales Organization Settle FTC Charges that the Companies Made Deceptive Claims and Violated the Franchise Rule | Federal Trade Commission

5. A federal court has granted a TRO to stop Digital Forensics Corporation LLC and its CEO from allegedly defrauding consumers out of at least $60 million by falsely and deceptively claiming that they would help victims of sextortion. Sextortion often involves foreign scammers who threaten to publish a nude or sexual image of the victim unless the victim pays. The FTC alleged that Digital Forensics used ads on search, video sharing and social media platforms to target victims looking for help and pushed them to purchase its services, which supposedly included tracking the sextortionist's location, communicating with the sextortionist, producing a detailed investigative report, communicating with law enforcement, and ongoing monitoring. Despite charging consumers between $1,499 and $20,000, Digital Forensics allegedly did not perform the promised services, suppressed negative customer reviews, and generated thousands of fake positive online reviews to hide its false promises.

   FTC Sues Operator of Sextortion Relief Scheme for Misleading Consumers into Believing it Would Identify Criminals and End Sextortion Attacks | Federal Trade Commission

6. The FTC, joined by a number of states and local municipalities, sued Toast Inc. and affiliated entities, alleging the restaurant software and fintech company violated the FTC Act, ROSCA, and related state laws by charging restaurants hidden fees, unauthorized fees, and unwanted add-ons; failing to deliver on its "24/7/365" customer support promises; and utilizing a multi-step cancellation process. Toast's cloud-based products and services help restaurants take and manage orders, accept payments and track inventory, among other related services. The fintech company sells its software as an annual or biennial subscription service, billed monthly.

   FTC and States Take Action Against Toast Inc. over Hidden and Unauthorized Fees, Deceptive Subscription and Cancellation Practices and Other Unlawful Conduct | Federal Trade Commission

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FTC Inquiries and Warning Letters

1. Pursuant to Section 6(b) of the FTC Act, the FTC ordered Delta, United, JetBlue, Lyft, Uber, DoorDash, Instacart, Target, and Walmart to provide information on their use of personal data to set prices and compensation. Specifically, the FTC is seeking information that will allow it to assess whether prices for tickets, ride shares, food deliveries or other products or services vary from one person to the next based on factors such as participation in loyalty programs or algorithmic analysis of personal data. The companies have 45 days from the date they receive the orders to respond. In August, the FTC sought public comment on a proposed enforcement policy statement describing how the undisclosed use of personal information to set unique prices could violate the FTC Act.

   FTC Launches Personalized Pricing and Compensation Inquiry | Federal Trade Commission

2. The FTC sent warning letters to 24 of the nation's largest healthcare services companies, reminding them to provide patients with timely, accurate, and complete pricing information for healthcare services, including routine and non-emergency medical care, and that failing to do so may violate the FTC Act. The letters emphasized that

the Centers for Medicare & Medicaid Services' (CMS) price transparency rules establish a baseline for ensuring that healthcare facilities provide pricing information. However, compliance with the CMS rules does not mean that a healthcare facility has complied with Section 5 of the FTC Act and the CMS rules do not create a safe harbor from FTC Act liability.

FTC Issues Letters Warning Hospitals Against Deceptive Pricing Practices | Federal Trade Commission

3. The FTC sent warning letters to 25 companies that market or generate sales leads for healthcare plans to put them on notice about deceptive or unfair claims and to urge them to review their advertising to ensure compliance with applicable laws and rules. Activities that may violate the law include misrepresenting the benefits or limitations of a healthcare plan, including any insurance benefits, misrepresenting a plan's costs or that a healthcare plan is major or comprehensive medical health insurance or its equivalent when in fact it is not, and falsely offering free offers, cash rewards, rebates, or other incentives to spur enrollment. Christopher Mufarrige, Director of the FTC's Bureau of Consumer Protection, commented that "The FTC will remain focused on monitoring this market and will not hesitate to hold accountable companies that unlawfully market or advertise healthcare plans to consumers."

   FTC Staff Warn Marketers of Healthcare Plans and Lead Generators Not to Deceive Consumers about the Terms of the Advertised Plans | Federal Trade Commission

Annual Reports

1. The FTC issued its latest report to Congress on protecting older adults, which highlights key trends based on fraud reports submitted by older adults, details the FTC's efforts to stop unfair or deceptive acts or practices that impact older Americans, and includes estimates that the overall cost of fraud to older adults in 2025 could be as high as $119.5 billion.

   FTC Issues Annual Report to Congress on Agency's Actions to Protect Older Adults | Federal Trade Commission

Class Actions

Allulose Class Actions

Target Corp. has been sued in a putative class action alleging that it falsely and misleadingly markets its store brand Up & Up Sugar-Free Hydration Supplement Powder products because they contain allulose, which the complaints assert qualifies as a sugar under federal labeling standards. Plaintiff asserts violations of various state consumer protection statutes, including Illinois and New York, and the Illinois Consumer Fraud and Deceptive Business Practices Act.

Williams v. Target Corp., No. 1:26-cv-12870 (N.D. Ill. Oct. 20, 2026)

Dunkin' Brands, Inc. and Inspire Brands, Inc. were sued in a putative class action alleging that they falsely market and advertise their Dunkin' Zero beverages as containing "0g of sugar" and "zero grams of sugar" because they, in fact, contain allulose. Plaintiff asserts violations of the Illinois Consumer Fraud and Deceptive Business Practices Act.

Wells v. Dunkin' Brands, Inc., No. 1:26-cv-14463 (D. Mass. Sept. 30, 2026)

The Kroger Co. was sued in a putative class action alleging that it falsely and misleadingly markets its maple-flavored sugar product, Simple Truth Syrup, as "Zero Sugar," as well as containing "0g Added Sugar" because it, in fact, contains allulose. Plaintiff asserts violations of state consumer protection statutes, including Illinois and New York, and the Illinois Consumer Fraud and Deceptive Business Practices Act.

Newton v. The Kroger Co., No. 1:26-cv-12573 (N.D. Ill. Oct. 14, 2026)

Costco Wholesale Corp. was sued in a putative class action alleging that it falsely and misleadingly markets and advertises its Kirkland Signature Hydration Electrolyte Drink Mix as being "Sugar-Free" because it, in fact, contains allulose. Plaintiff asserts violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and the Washington Consumer Protection Act.

Maldonado v. Costco Wholesale Corp., No. 2:26-cv-03702 (W.D. Wash. Sept. 30, 2026)

"Sugar-Free" Claims

Starbucks Corp. was sued in a putative class action alleging that its use of the term "Sugar-Free" in the product names of its "Protein Beverages" product line is false and misleading because the products contain lactose, which is a naturally occurring sugar, resulting in the products containing approximately 13–21 grams of sugar per venti serving. Plaintiffs assert violations of California's Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law, New York General Business Law Sections 349 and 350, and Washington's Consumer Protection Act.

Walsh v. Starbucks Corp., No. 2:26-cv-03745 (W.D. Wash. Oct. 2, 2026)

"Made With Avocado Oil" Claims

Garza Food Ventures, LLC d/b/a Siete Family Foods and PepsiCo, Inc. were sued in a putative class action alleging that they falsely and deceptively label, advertise and market their "Maiz Sea Salt Corn Tortilla Chips Made with Avocado Oil" and "Kettle Cooked Sea Salt Potato Chips Made with Avocado Oil" as "MADE WITH AVOCADO OIL," which is, in fact, false because the products contain undisclosed seed oils. Plaintiff asserts violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and the Illinois Uniform Deceptive Trade Practices Act.

Wilson v. Garza Food Ventures, LLC, No. 1:26-cv-13028 (N.D. Ill. Oct. 22, 2026)

Children's Supplement Claims

Mom Enterprises, LLC was sued in a putative class action alleging that it falsely and misleadingly markets its Mommy's Bliss Kids Sleep melatonin supplement as being able to "promote restful sleep and bring bliss back to bedtime" and "support your child's natural sleep process," that it is "designed for kids 3 years and above," and is "a safe supplement for children" because melatonin, the product's primary active ingredient, is unsafe for children. Plaintiffs assert violations of California's Consumer Legal Remedies Act-and Unfair Competition Law and, for the Wisconsin subclass, Section 100.18 of the Wisconsin Statutes, which prohibits false, deceptive, or misleading advertisements.

Martinez v. Mom Enterprises, LLC, No. 3:26-cv-05834 (S.D. Cal. Oct. 12, 2026)

Amount of Product Ingredient

Walmart, Inc. was sued in a putative class action alleging that its Great Value brand pre-packaged frozen cooked and raw shrimp products "contain materially less frozen shrimp by weight than stated on the label and packaging; in some cases, as much as 11% less than advertised." Plaintiffs assert violations of the Illinois Consumer Fraud and Deceptive Business Practices Act.

Baptist v. Walmart, Inc., No. 2026CH09745 (Ill. Cir. Ct. Cook Cnty. Oct. 8, 2026)

Dermatologically Tested Claims

ZURU Consumer Brands LLC and ZURU LLC were sued in a putative class action alleging that they advertise their Millie Moon Luxury Diapers as absorbent with claims including "12 HOUR ABSORBENCY" and a "DOUBLE LEAK GUARD" and as safe with claims including "Dermatologically Tested" and containing a "pH BALANCE LINER," but that the diapers in fact fail to absorb adequately and infants using them have experienced skin reactions. Plaintiffs assert violations of California's Consumer Legal Remedies Act, False Advertising Law, and Unfair Competition Law.

McGee v. ZURU Consumer Brands LLC, No. 5:26-cv-05823 (C.D. Cal. Oct. 1, 2026)

Metabolism and Body Fat Claims

Celsius Holdings, Inc. and Celsius, Inc. were sued in a putative class action alleging that they misleadingly and falsely claim on the front labels of their energy drinks that it "accelerates metabolism" and "burns body fat," because drinking the products will not "accelerate" a person's metabolism nor will they "burn" one's body fat. Plaintiff asserts violations of the Washington Consumer Protection Act.

Nielsen v. Celsius Holdings, Inc., No. 2:26-cv-04113 (W.D. Wash. Oct. 26, 2026)

Fee Class Actions

Optum Financial, Inc. and ConnectYourCare, LLC, (collectively, "Optum"), which administers FSAs and HSAs for individuals who have also enrolled in COBRA, were sued in a putative class action alleging that when consumers make their monthly COBRA, FSA or HSA premium payments through Optum's online portal, Optum tacks on a $20 processing fee to all one-time monthly premium payments, regardless of the form of payment or its amount. Plaintiff further alleges that Optum tacks on the fee only after consumers have completed a comprehensive sign-up process, as well as fails to reasonably or adequately inform consumers that the fee will be charged or disclose reasonable alternatives to paying it. Plaintiff asserts violations of California's Consumer Legal Remedies Act and Unfair Competition Law, and the Minnesota Prevention of Consumer Fraud Act.

Delkhaste v. Optum Fin., Inc., No. 3:26-cv-11895 (N.D. Cal. Oct. 14, 2026)

The Stop & Shop Supermarket Company, LLC was sued in a putative class action alleging that it is charging unfair and deceptive fees by quoting customers a fee-less price when they begin an Online Pickup Order through either www.stopandshop.com or its mobile app, but tacks on a $3.95 "Pick Up Fee" at checkout. Plaintiff alleges violations of the

Massachusetts Unfair and Deceptive Businesses Act, which prohibits misrepresenting or failing to disclose a product's total price prior to requiring any personal information, including customer billing information, as well as prohibits misrepresenting or failing to disclose the nature, purpose, and amount of any fees, charges, or other expenses—excluding shipping charges and government charges—when the product's total price is initially presented.

Douglas v. The Stop & Shop Supermarket Co., No. 3:26-cv-30170 (D. Mass. Oct. 15, 2026)

Dismissal Reversed

The Fifth Circuit reversed a district court's dismissal under Rule 12(b)(1) for lack of Article III injury in a class action alleging that a Mississippi-based seafood restaurant and others violated the Mississippi Consumer Protection Act by marketing and selling inexpensive foreign fish as high-priced premium local fish. The Fifth Circuit held that the plaintiff customer "plausibly suffered an injury in fact cognizable under Article III." As to plaintiff's fraudulent-inducement theory, the court determined that plaintiff's injury is "sufficiently concrete" to support Article III standing where he claims that he suffered an economic injury because he purchased inexpensive frozen fish he would not have purchased but for defendants' misrepresentation. The court drew a distinction between decisions that rejected the application of the fraudulent-inducement theory where a plaintiff suffered no physical injury but based his *economic* injury on the product's risk of *physical* harm (*e.g.*, a medication that allegedly carried a risk of liver harm but plaintiffs suffered no physical injury) with decisions where a product seller promised a high-quality product, charged the buyer for that high-quality product, and delivered an inferior version of that product (*e.g.*, health insurance plan purchasers alleged that the plan's provider directories were materially inaccurate and represented out-of-network providers as in-network).

McCain v. Mary Mahoney's, Inc., No. 5-60663, 2026 U.S. App. LEXIS 31515 (5th Cir. Oct. 16, 2026)

Dismissal Denied

A federal district court denied dismissal of claims in a putative class action alleging that Mitra-9 Brands, LLC violated New York General Business Law (NY GBL) Sections 349 and 350 by falsely, misleadingly, and deceptively advertising its seltzers, powders, and shots with kratom as having various benefits that can help consumers "sail through their workday or support their post-workout routine," and "support overall vitality and well-being," without disclosing the health hazards and addictive risks associated with its products. Explaining that a plaintiff may show a material omission by alleging that a consumer could not reasonably obtain the relevant information that a defendant failed to provide, the court concluded that plaintiff plausibly pleaded a viable claim that defendant's omission regarding kratom's addictiveness constituted a deceptive practice under NY GBL. The court noted that plaintiff asserts that the general public knows little about kratom, accurate information about its risks is difficult to access, and kratom is largely unregulated yet widely available. The court further pointed out that a reasonable consumer would have no reason to suspect or inquire whether the products contained an opioid-like substance with serious addictive risks, which plaintiff alleges defendant advertises and packages with no health warnings while promoting "kratom's potential benefits" and that the packaging mimics well-known supplements and caffeinated energy drinks.

Cheswick v. Mitra-9 Brands, LLC, No. 1:25-CV-6795, 2026 U.S. Dist. LEXIS 225375 (S.D.N.Y. Sept. 30, 2026)

A federal district court denied HanesBrands, Inc.'s motion for judgment on the pleadings in a class action alleging that its email promotions lure consumers with urgent email subject lines that misrepresent the timing of the deals and harm consumers by creating a false sense of urgency to act that is in violation of Washington's Commercial Electronic Mail Act (CEMA) and Consumer Protection Act (CPA). The court denied Hanes' request to reconsider its prior decision denying

dismissal, where the court concluded that plaintiff alleged sufficient facts to establish a CEMA claim so her CPA claim was also sufficient because a violation of CEMA is a per se violation of the CPA. The court stated that Hanes failed to cite to any intervening or controlling authority. The court explained that the holding in *Meade v. Profusion Cosmetics Corp.,* 2026 WL 2098093, at *2 (W.D. Wash. July 16, 2026) (that a successful CEMA claim does not establish a per se CPA claim as the CPA also requires injury) is not binding and directly contradicts the Supreme Court of Washington's holding in *Wright v. Lyft,* 189 Wash. 2d 718 (Wash. 2017) that a CEMA violation automatically establishes a CPA violation. The court stated that Hanes "further misconstrues the holding in *Wright* to only apply to text messages, when the court expressly contemplates the congressional intent for CEMA to apply to text messages and emails equally." Noting that this is an actively developing area of state law, the court stated that it will defer to the Washington courts' interpretation of Washington statutes.

Jackson v. HanesBrands, Inc., No. 2:25-CV-00440, 2026 U.S. Dist. LEXIS 234948 (E.D. Wash. Oct. 14, 2026)

Summary Judgment Granted

A district court granted summary judgment in favor of Barilla America, Inc. with respect to plaintiffs' California statutory claims in a class action alleging that it falsely advertised its pasta by labeling its boxes with "Italy's #1 Brand of Pasta," with three teardrops of green, white, and red positioned on either side of the text, because it misled consumers to believe it was manufactured in Italy from Italian ingredients when it in fact was made in the U.S. from non-Italian ingredients. As to plaintiffs' California statutory claims, the court concluded that Barilla's labeling is not misleading as a matter of law. The court rejected plaintiffs' proposed reading of the ambiguity standard in *Whiteside v. Kimberly Clark Corp.*, 108 F.4th 771 (9th Cir. 2024) stating that it could only be satisfied by labels that "make no representation at all or . . . are so devoid of any concrete meaning that there is nothing from which *any* inference could be drawn or on which *any* reasonable belief could be based" warning that this could mean that any label susceptible to at least one concrete false meaning would be actionable. The court stated that instead it "reads *Whiteside* to mean what it says: that 'a front label is ambiguous when reasonable consumers would necessarily require more information before reasonably concluding that the label is making a particular representation.'" After finding the presence of ambiguity—based on a consumer survey showing around 80% of respondents interpreted the challenged representation to mean something about brand popularity, while around 30% interpreted it to mean something about ingredient sourcing—the court considered "what additional information other than the front label was available to consumers of the Barilla products." The court stated that this includes the side label statement "Made in the U.S.A. with U.S.A. and imported ingredients." The court concluded that the challenged representation is not misleading as a matter of law because upon seeing the side label, it would be clear to a reasonable consumer that the pasta was not made in Italy with Italian ingredients.

Sinatro v. Barilla Am., Inc., No. 22-cv-03460, 2026 U.S. Dist. LEXIS 224853 (N.D. Cal. Sept. 30, 2026)

NAD Focus

"30 Minutes to Whiter Teeth" Claims

Following a reopened inquiry, NAD recommended that Oral Essentials, Inc. (OEI) continue to discontinue its "30 minutes to whiter teeth" claim for its Lumineux Whitening Strips. In the underlying challenge brought by competitor the Procter & Gamble Company, NAD recommended that OEI discontinue the claim "30 minutes to whiter teeth" or modify it to avoid

conveying that consumers will experience whiter teeth after using the Lumineux product once for 30 minutes. Subsequently, OEI petitioned to reopen the proceeding and provided three new studies to support its claims. However, NAD determined that all three studies were fatally flawed. Two of the studies did not include a negative control, making it impossible for NAD to determine whether the whitening could be attributed to OEI's product or another variable, and the third study's data discrepancies called its reliability into question, noting tooth color measurements that should have been impossible and standard deviations that were unusually high.

Oral Essentials, Inc. (Lumineux Whitening Strips), Report #7235RO, *NAD/CARU Case Reports* (Oct. 2026)

Hair and Skin Claims

As part of its routine monitoring program, NAD determined that Blissy, LLC supported its "Less Frizz" claim for its Blissy Silk Pillowcases, but recommended that Blissy modify or discontinue certain claims concerning hair breakage and tangles, anti-aging and wrinkle prevention, acne, clinical study results, and dermatologist endorsements. NAD determined that the evidence Blissy submitted (lab testing on prepared hair samples and studies where users report their perceptions) supported the general "Less Frizz" claim. NAD further found that consumers could understand Blissy's express "Breakage-Free" and "Tangle-Free" claims to convey the unsupported message that use of Blissy pillowcases completely prevents hair breakage and tangles while sleeping, and recommended that Blissy discontinue both claims or modify its advertising to avoid conveying the message that use of its pillowcases completely prevents hair breakage or tangles while sleeping. NAD also determined that the challenged dermatologist endorsements conveyed that they used their expertise to evaluate Blissy's clinical testing and found it reliable but recommended that Blissy discontinue or modify the endorsements because Blissy's studies did not support the specific outcomes, percentages, and timeframes stated. NAD also recommended that Blissy discontinue the claims "Anti-aging" and "Prevents Signs of Aging … preventing the formation of new fine lines and wrinkles as you sleep," and modify its advertising to avoid conveying that using Blissy pillowcases prevents additional facial wrinkles after concluding that the studies submitted were not a good fit for the broad unqualified claims. NAD also determined that a study testing whether its silk material clogs pores was not a good fit for the unqualified "acne-fighting" claims and recommended that Blissy discontinue or modify its advertising to avoid conveying that using Blissy pillowcases help prevent or reduce acne breakouts. During the inquiry, Blissy voluntarily agreed to discontinue the express claims "90% of people had … fewer blocked pores after using these pillowcases" and "90% had … fewer blocked pores."

Blissy, LLC (Blissy Silk Pillowcases), Report #7578, *NAD/CARU Case Reports* (Sept. 2026)

Cruise Price and Gratuity Disclosures

As part of its routine monitoring program, NAD recommended that Virgin Cruises Intermediate Ltd. Inc. modify its Virgin Voyages advertising to clearly and conspicuously disclose service gratuities throughout the checkout process. At issue was whether Virgin Cruises highlighted a lead price without prominently disclosing the additional, mandatory per-night service gratuity. NAD determined that consumers are not sufficiently apprised about the discretionary nature of gratuities in Virgin's checkout process, how they are applied, and how they can remove them if they pay onboard. Additionally, in the final step of checkout the gratuities are referenced as a "service charge," which creates further confusion about whether they are optional. Therefore, NAD recommended that Virgin modify its booking flow to clearly and conspicuously disclose throughout the checkout process that: (1) gratuities are optional but not refundable if pre-paid; (2) the gratuities are higher if paid onboard; and (3) if not prepaid, gratuities can be modified or removed prior to disembarkation.

Virgin Cruises Intermediate Limited Inc. (Virgin Voyages), Report #7560, *NAD/CARU Case Reports* (Oct. 2026)

As part of its routine monitoring program, Royal Caribbean Group voluntarily modified certain advertising claims but NAD recommended further changes to disclosures regarding optional pre-payment of gratuities. At issue was whether Royal Caribbean's advertising disclosed adequate information about gratuity fees. During the inquiry, Royal Caribbean modified its online booking to clearly and conspicuously disclose that gratuities are optional, that customers may choose to prepay them, and that they may modify or remove gratuities at any time prior to disembarkation. However, NAD recommended that Royal Caribbean modify certain gratuities information in the "learn more" tab and on the final checkout page to make clear that gratuities are optional.

Royal Caribbean Group (Advertising for Royal Caribbean), Report #7561, *NAD/CARU Case Reports* (Oct. 2026)

NAD to Refer HigherDOSE for Red Light Product Claims

As part of its marketplace monitoring program, NAD will refer HigherDOSE, LLC's express and implied claims about its Red Light Hat and Red Light Face Mask to the appropriate regulatory authorities for failure to participate in two separate NAD inquiries. NAD inquired about claims that the Red Light Hat could support hair growth, increase blood flow, rejuvenate hair follicles, reduce shedding, and strengthen roots and that the Red Light Face Mask could reduce fine lines and wrinkles, improve the skin barrier and firmness, and increase skin hydration, among other claims.

HigherDOSE, LLC (HigherDOSE Red Light Hat), Report #7599, *NAD/CARU Case Reports* (Oct. 2026)

HigherDOSE, LLC (HigherDOSE Red Light Face Mask), Report #7598, *NAD/CARU Case Reports* (Oct. 2026)

Simpson
Thacher

KEY CONTACTS

Laura Brett
Partner
+1-212-455-2180
laura.brett@stblaw.com

Lynn K. Neuner
Partner
+1-212-455-2696
lneuner@stblaw.com

SIMPSON THACHER WORLDWIDE



UNITED STATES

New York
425 Lexington Avenue
New York, NY 10017
+1-212-455-2000

Boston
855 Boylston Street, 9th Floor
Boston, MA 02116
+1-617-778-9200

Chicago
167 North Green Street, 15th Floor
Chicago, IL 60607
+1-312-449-5130

Dallas
100 Crescent Court, Suite 1250
Dallas, TX 75201
+1-214-751-3150

Houston
1000 Main Street, Suite 2900
Houston, TX 77002
+1-713-821-5650

Los Angeles
1999 Avenue of the Stars
Los Angeles, CA 90067
+1-310-407-7500

Palo Alto
2475 Hanover Street
Palo Alto, CA 94304
+1-650-251-5000

San Francisco
One Market Plaza
Spear Tower, Suite 3800
San Francisco, CA 94105
+1-415-426-7300

Washington, D.C.
900 G Street, NW
Washington, D.C. 20001
+1-202-636-5500

EUROPE

Brussels
Square de Meeus 1, Floor 7
B-1000 Brussels
Belgium
+32-2-504-73-00

London
CityPoint
One Ropemaker Street
London EC2Y 9HU
England
+44-(0)20-7275-6500

Luxembourg
Skypark Business Center
1, Avenue de l'Aéroport
L-1110 Senningerberg
Grand Duchy of Luxembourg
+352-27-94-23-00

SOUTH AMERICA

São Paulo
Av. Presidente Juscelino
Kubitschek, 1455
São Paulo, SP 04543-011
Brazil
+55-11-3546-1000

ASIA

Beijing
6208 China World Tower B
1 Jian Guo Men Wai Avenue
Beijing 100004
China
+86-10-5965-2999

Hong Kong
ICBC Tower
35th Floor
3 Garden Road, Central
Hong Kong
+852-2514-7600

Singapore
Ocean Financial Centre
10 Collyer Quay, #34-06
Singapore 049315
+65-6380-1700

Tokyo
Ark Hills Sengokuyama Mori Tower
42nd Floor
9-10, Roppongi 1-Chome
Minato-Ku, Tokyo 106-0032
Japan
+81-3-5562-6200

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