

National Advertising Decisions

Kendal Nutricare Limited (NAD Case #7422)

Nurture, LLC and Kendal are competitors in the infant formula market. Nurture challenged claims made by Kendal for its Kendamil infant formulas on its product label, website, on third-party websites, and on social media. Specifically, Nurture argued that Kendal's advertising misrepresents that its products are natural or clean; falsely disparages other products; falsely states that its products are FDA approved; overstates the role of whole milk in its formulas; makes unsupported anti-inflammatory claims; and promotes unsubstantiated consumer reviews and does so without required disclosure of material connections.

The National Advertising Division (NAD) found that, in context, Kendal did not make an unqualified all-natural claim about its infant formulas and that Kendal established a reasonable basis for the other challenged natural claims. NAD recommended, however, that because Kendal did not provide support for its clean claim, those claims be discontinued. NAD also recommended Kendal discontinue or modify the comparative claims related to additives, as there was no evidence in the record demonstrating that competitors' products contain cheap additives.

NAD also found that the advertising conveyed the message that Kendamil products contain natural MFGM because they are made with whole milk fats that are similar to breastmilk. NAD found that because Kendamil formulas include whole milk fats, Kendal had established a reasonable basis for the challenged MFGM claims. NAD found that the record did not support the anti-inflammatory claims for Kendal's goat milk infant formula and recommended that such claims be discontinued. With respect to the consumer reviews, NAD found that there was no evidence in the record that the reviews were not authentic. Finally, NAD recommended Kendal discontinue the "FDA Approved" claim on product packaging to avoid conveying the misleading message that Kendamil formula is endorsed or formally approved by the FDA.

[Read the press release](#)

The Good Feet Store (NAD Case #7430)

NAD inquired about claims made by the Good Feet Store that its arch support products are clinically proven to provide significant pain relief and are engineered to "help you live the life you love without pain." NAD reviewed the clinical studies provided by Good Feet and found that the studies were insufficiently reliable to support the express claims and that other documentation provided did not constitute competent and reliable scientific evidence to substantiate the claims. NAD recommended that the challenged claims be discontinued.

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The Procter & Gamble Company (NAD Case #7442)

GuruNanda, LLC challenged express and implied claims made by P&G for its Deep Stain Remover Toothpaste that appear on the product label and are featured throughout P&G's advertising. NAD found that P&G's evidence established a reasonable basis for the challenged claims. NAD also reviewed the claim "REPAIR -Extra strength fluoride remineralizes enamel to strengthen teeth" that appeared on the product packaging. NAD found that the claim went beyond what is permitted by the FDA monograph, which makes no reference to using the term "extra-strength" to describe remineralizing and strengthening benefits and therefore recommended that it be discontinued.

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The Procter & Gamble Company (NAD Case #7443)

GuruNanda, LLC challenged express and implied [X] Levels Whiter claims made by P&G for its Crest 3D Whitestrips. The challenged claims appeared on product labels, on P&G's Crest website, and on third-party product detail pages such as on Amazon and Target. NAD found that P&G's clinical studies and meta-analysis provided a reasonable basis for the challenged express claims. NAD did not find that the [X] Levels Whiter claims conveyed the message that the products will whiten teeth the number of shades specified in the claims. In addition, NAD found that P&G provided a reasonable basis for the challenged implied typicality claims.

[Read the press release](#)

Caraway Home, Inc. (NAD Case #7444)

The Cookware Sustainability Alliance (CSA), a non-profit organization comprised of cookware manufacturers, challenged health and safety claims made by Caraway, a manufacturer of ceramic nonstick cookware. Specifically, CSA argued Caraway's advertising made claims that traditional cookware and traditional nonstick cookware contains forever chemicals or releases toxins into food and the air and that Caraway's cookware is a safer, non-toxic alternative.

NAD found that Caraway did not meet its burden of supporting claims that its competitors' nonstick cookware is toxic and recommended that the challenged express claims be discontinued or that Caraway modify its advertising to avoid conveying that misleading message. Although NAD concluded that Caraway has a reasonable basis to claim its cookware is free of PFAS and non-toxic, it did not provide sufficient evidence to support comparative claims that competitor cookware is unsafe or less safe. NAD recommended Caraway avoid making such safety claims in a comparative context.

[Read the press release](#)

Agendia, Inc. (NAD Case #7489)

Genomic Health, Inc. (GHI) and Agendia are competitors in the field of genomic testing for early-stage breast cancer. At issue for NAD was whether Agendia's social media posts that involved comments and interviews by a doctor who touted Agendia's MammaPrint genomic test to evaluate early-stage breast cancer over GHI's test required disclosure of the "close relationship" between the doctor and Agendia. NAD found that in the context in which the social media posts appeared, the nature of the doctor's relationship to Agendia should be disclosed.

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Maze Therapeutics, Inc. (NAD Case #7500)

Vertex Pharmaceuticals Inc. challenged express and implied superiority and efficacy claims made by Maze for its small-molecule Compound MZE829. The parties are biotechnology companies and competitors that are currently developing products for the treatment of APOL1-Mediated Kidney Disease. Maze declined to participate in the NAD process. Accordingly, NAD referred the matter to the appropriate regulatory authorities pursuant to its procedures.

[Read the press release](#)

National Advertising Appeals

T-Mobile US, Inc. (NARB #7413-340)

A panel of the National Advertising Review Board (NARB) recommended that T-Mobile discontinue the express claims "Families can switch and save 20% vs. The other big guys plans plus streaming services" and "Switch and save versus AT&T and Verizon's comparable plans plus streaming." The NARB panel also recommended that T-Mobile modify its advertising to avoid certain unsupported implied claims.

Monthly Case Report Summary

August 2025

In agreement with NAD's underlying decision, the NARB panel concluded that the "plus streaming" phraseology is confusing, unclear and inadequate to accurately communicate the nature of the price comparison and that reasonable consumers will conclude that the promoted savings is based on the cost of the wireless plans without any adjustments for additional benefits.

[Read the press release](#)