

# **A Report on False Advertising**

**Xibei Huang**

**May 7, 2015**

## TABLE OF CONTENTS

<u>CHAPTER</u>	<u>PAGE</u>
Executive Summary.....	3
Introduction.....	4
Beauty Industry .....	4
Food Industry .....	8
Regulations on advertising.....	12
Current State of Advertising Ethics .....	14
Industry Problem .....	15
How Customers Process the Exaggerated Advertisings .....	16
Ethical Advertising Standards.....	17
Conclusion .....	19
Reference .....	20

## **Executive Summary**

There is an identity that all of us share, customer. Everyday we are exposed to all different kinds of advertisings and cheated by the false ones. In this paper, I analyzed the false advertising cases from OLAY and Whole Foods Market. Based on the analysis of these two examples, I found out issues of advertising in the beauty industry represented by OLAY and the food industry represented by Whole Foods Market. With the false advertising being so popular, the federal agency to protect customers' interests and investigate deceptions in business, Federal Trade Commission, has some enforcement power, but still not enough to completely change the situation. The problem was worsened by the irresponsibility and over confidence of the advertising industry leaders and the ignorance of ethical issues from some faculty in marketing departments. Due to these factors acting together, the problem remained unsolved. Customers adapt to this environment and are able to evaluate exaggerated advertising. The Government policymaker assumed that the customers are capable of determining the exaggerated advertising and expected customers to act in a reasonable manner. However, research shows that even though customers are able to "identify the exaggerated advertising as less credible", this kind of advertising still shifts their evaluation of the brand more positive. Therefore, the elimination of false advertising requires the collaboration from all the industries involved and revision of laws. At the end, I consider the ideas about standards of advertising and propose what we can possibly do to improve the current environment of advertising.

## **Introduction**

Have you ever attracted by the advertising and bought something that was not as effective as it claimed? Many people have. False advertising is so popular and it largely harms the interests of customers. In this white paper, I will analyze two false advertising cases from the beauty industry and food industry. I will examine the effectiveness of Federal Trade Commission, a federal agency that protects the interest of customers. I will analyze the current advertising ethics by talking about the attitudes of industry leaders and academic leaders of marketing. Based on my analysis and examination, I will find problems in each party. I will also talk about how customers process those exaggerated advertising and why the law is not fair to customers. To address these issues, I will introduce a good standard system for advertising and propose what we can do to improve the situation based on the standards.

## **Beauty Industry**

### OLAY's misleading advertisements

Reported by Los Angeles Times, Lorette Perez-Pirio, a woman from San Joaquin County, has brought a class-action suit against Proctor & Gamble Co. for its false advertising on its OLAY Regenerist line of eye roller and eye cream. OLAY claimed that those products “reduce the puffiness, dark circles, fine lines and wrinkles, promising ‘younger looking skin without the drastic measures’”. Lorette believed it “misrepresent the effects and purported benefits of the products.” Even though the court didn't make a decision on this suit, there is certainly a problem about advertising in this industry because the statements made by those companies are poorly phrased and lack scientific evidences.

On OLAY's official website under its Regenerist Luminous Tone Perfecting moisturizer, it is claimed that "skin looks more luminous in just 2 weeks." Does this mean that everyone who uses this product will have his/her skin look more luminous in just 2 weeks? Does it mean it works on every skin type for every age group and all genders? Without any qualifiers put upon this sentence, it is very easy for people to believe that this works for everybody, but actually, it does not. What scientific evidence does OLAY have for it to state that as fact? Even for medicines, they have exceptions and possible side effects written on their instructions and they cannot guarantee that effects can be reached in



Image 1. Lesley Lawson's Before and After Airbrushing Picture

certain period. How can a skincare company be so certain about its product effect? In order to know its real effect, I looked up customer reviews on Amazon. There are 9% of its customers on Amazon who gave it three stars or lower (5 stars total) and alleged that this product didn't work for them. Nine percent might seem like a small percentage, but those are a lot of people when we think about how many bottles of eye cream OLAY sells everyday.

OLAY has problems not only about its product description, but also about its advertising campaign. For its Definity Eye Illuminator in the same product line, Regenerist, they invited Lesley Lawson, an English model who is currently 66 years old, to be in the advertising campaign. She looks almost thirty years younger than her real age in the advertisement. She said, "OLAY is her secret to brighter-looking eyes." While consumers may think OLAY invented such a magic that would make the time go back, unfortunately, that all resulted from airbrushing, a technique used to make people look better in photos. From the image above, we can clearly see the differences after the retouching. This overly-retouched-photo has a "misleading impression about the eye cream's effects" because it misled the customers to believe that this much younger look was resulted from the treatment of the eye cream. The advertising was banned because of that. The spokesman of the firm replied, " it's accepted industry practice in advertising to choose beautiful women such as Twiggy (Lesley's nickname), as models, and to use cosmetics, hairstyling and lighting to show them at their best." It is not doubtful that this advertising has been airbrushed, but he tried to avoid the crucial point here, the airbrushing, and only talked about cosmetics, hairstyling and lighting. This was not a responsible way to address to the public's complaints and deal with the mistake made by the company.

Airbrushing is a commonly used in advertising in the beauty industry. OLAY is not



Image 2. Julia Roberts' Before and After Airbrushing Pictures

the only company that uses airbrushing. Below are two pictures of Julia Roberts, a famous American actress. The one on the left is the advertising she did for Lancôme, a luxury cosmetics brand. By contrasting the two pictures, it is not hard to know that the advertising photo has been retouched. When you browse the different cosmetic companies' advertising, all you see are those one-hundred-percent perfect faces. Those perfect faces not only mislead consumers to believe that those effects are resulted from the products, but also create inferiority for those women who are not that perfect. The documentary movie, *Miss Representation*, showed how these advertisings have negatively influenced many women's ideas about themselves. There is a sense of insecurity felt by women when they saw the unrealistically perfect faces in the advertisings because they would feel pressured to be the same way. There is no way to achieve such perfection, so they will put

on makeup or do cosmetic surgery. In the movie, one girl said, “I have close friends that go to the bathroom and put on like ten pounds of makeup, (but they) are at school to learn.”

If the companies were just trying to advertise the real effect of their products, it is not necessary at all for them to airbrush. Based on the negative impact brought by the airbrushing and its potentially misleading impression, I suggest banning airbrushing for all advertisings.

## **Food Industry**

### Whole Foods Market

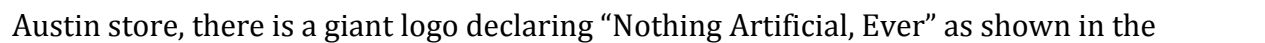
One of Whole Foods’ quality standard is that they “feature foods that are free of artificial preservatives, colors, flavors, sweeteners and hydrogenated fats;” ironically, they admitted the fact that they are selling unlabeled genetically modified foods. Outside of its Austin store, there is a giant logo declaring “Nothing Artificial, Ever” as shown in the . By definition, “Artificial” means “made or produced by human beings rather than occurring naturally.” GMO is defined as “an organism or microorganism whose genetic material has been altered by means of genetic engineering.” Altering DNA of an organism is completed by techniques and operated by human beings, thus it is artificial. This obvious opposition between its statement and the fact proves that Whole Foods Market is engaged in false advertising.





Image 3. Whole Foods Market's Logo

Everywhere in Whole Foods Market's annual reports, its stores, its official website, its marketing campaigns... natural and organic foods have been its biggest selling point. Almost every customer comes to Whole Foods to buy healthy produce. The fact that they are selling genetically modified foods makes this company become self-contradictory. What's worse is that these GMOs are unlabeled. They are mixed with the natural organic foods. Since customers are exposed to all the misleading marketing and claims from Whole Foods, they probably believe what they buy are all natural organic foods and they are misled to pay a higher price for the GMOs.

In an investigative video (*Whole Foods Bombshell: Infowars Reporters Expose GMO False Advertising with 'NOTHING ARTIFICIAL, EVER' Claim*) released by Infowars.com, many

customers said they weren't aware of the fact that WFM is selling GMOs and some of its employees didn't know either. Libba Letton, Whole Foods' executive who was in charge of food safety and investor relations, stated on camera: "Unless a store is all organic, every store in the country sells unlabeled genetically modified [foods]." However, in Whole Foods annual report, it declared that Whole Foods' "high quality standards differentiate our stores from other supermarkets" and "ensure the products we sell meet a higher standard – one that bans hundreds of ingredients commonly found in other stores." First, WFM promises customers with "nothing artificial," which means it is supposed to be all organic foods. Second, selling GMOs does not differentiate WFM from other stores and does not meet the higher standard they claim.

Even though there is a controversy among scientists whether GMOs are harmful to the human body, US Food and Drug Administration's scientists had "repeatedly warned that GM foods can create unpredictable, hard-to-detect side effects, including allergies, toxins, new diseases, and nutritional problems." I don't think this goes along with what Whole Foods claims in its annual report – they are "committed to foods that are fresh, wholesome and safe to eat" and "provide food and nutritional products that support health and well-being." With the possible negative effects created by GMOs, Whole Food Markets are not doing what it claims in the annual report.

WFM's response to this scandal was not convincing. They admitted that they needed to do more to keep all Team Members up-to speed on the latest information. But they have not sold GMOs for just one day. For all those years, there is sufficient time for them to coach their employees to know this basic fact, but they haven't. The only explanation is that they don't want their employees to know because if their 70,000 employees all know about this,

their customers would know as well. The only reason why Whole Foods is doing that is to trick customers and gain profits. Thus, Whole Foods eventually becomes one of those evil corporations.

### Food Production System

The false statement of Whole Foods Market's food quality is just one tip of the iceberg. The food market as a whole is participating in a conspiracy. For this conspiracy to proceed successfully, it is using two methods. One is hiding fact and another is false advertising. Hardly anyone or any organization involved in this industry will talk about about how our foods are produced, so most of the customers won't know how terrible the foods quality is. By false advertising, the industry can encourage consumption and keep customers trusting the industry. Using these two methods, customers would be satisfied with the current condition of the food industry and believe what they are eating everyday is healthy and nutritional just like what have been said on the advertising. The whole industry will benefit from hurting the customers.

In the documentary movie *FOOD INC.*, it introduces the whole production process of the food industry. These secrets under the veil are shocking. The top four companies in the industry, Tyson, Swift, National Beef and Cargill, captured 80% of market share of beef. They changed the farms to factories to reach highest efficiency and effectiveness and then lead to mass profit. They controlled most of the suppliers in the U.S and required them to grow chickens into the biggest size using the fastest and cheapest way. Therefore, the use of medicine is inevitable. Chickens grown in this way cannot walk because they cannot keep up all the weight they are carrying. I don't think what we are eating is healthy or nutritional if the raw materials are not healthy first of all.

Similarly, to reduce cost, cows are not fed with grass but rather corn because corn is cheaper. Researchers have indicated that a high-corn diet results in more harmful E Coli. If one cow is affected by the disease, much of ground beef will get affected as well because one piece of the ground beef has meat from hundreds of cows. The movie tells a story about a two-and half-year-old boy who died because he was stricken by E Coli 0157:h7 after he had eaten a hamburger made from the infected meat.

It is hard to believe that everyday, we are eating unhealthy chickens and ground beef that might have been affected by E Coli. It is hard to believe because we are around all the positive marketing. When you search McDonald's, Wendy's or any other fast food company, you can clearly see information about the ingredients and nutrition. You thought they were transparent and trustworthy, but that was just good marketing. They let you focus on the information they want you to see and won't let you know the terrible part. On Wendy's official website, "Quality Is Our Recipe" is its slogan, but with such a terrible meat production process, I don't know where its quality comes from.

### **Regulations on Advertising**

The Federal Trade Commission, a bipartisan federal agency, was established by the Federal Trade Commission Act in 1914. Its dual mission is to protect consumers and promote competition. It "enforces federal consumer protection laws that prevent fraud, deception and unfair business practices" and "administers a wide variety of laws and regulations." For administrative enforcement, FTC may challenge "unfair or deceptive act[s] or practice[s]" through maintenance of an administrative adjudication. For judicial enforcement, "the commission must seek the aid of a court to obtain civil penalties or

consumer redress for violations of its orders to cease and desist or trade regulation rules”. Section 13(a) of the Act authorizes FTC the power to use “preliminary injunction’ provision to obtain injunctions against ongoing campaigns of deceptive advertising.”

In 1983, FTC published its Policy Statement on Deception. It defined three elements that support all deception cases:

- There must be a representation, omission or practice that is likely to mislead the consumer.
- We examine the practice from the perspective of a consumer acting reasonably in the circumstances.
- The representation, omission, or practice must be a “material” one. (FTC official website)

For the first element, FTC stated that “In cases express claims, the representation itself establishes the meaning. In cases of implied claims, the Commission will often be able to determine meaning through an examination of the representation itself.” The problem here is that companies play with words. For example, some companies in the beauty industry would claim their products make consumers look younger, but “young” or “old” can be a personal opinion. Some people might think you look younger, and other people might not. And the word “healthy” can be tricky as well. How do you define healthy? No fat? Gives you energy? Provide nutrition? Hamburger, in general is fatter than salad, but it also provides you with energy and nutrition. When a fast food company claims its hamburger is healthy, how does the FTC examine whether it is lying or not?

There are often ways for companies to make their ads be in that grey area or use other offsetting behaviors. Because of this problem, FTC’s control over companies’

genuineness was not as effective as was expected. In Journal article *Raising Red Flags: The Change in Deceptive Advertising of Weight Loss Products After the Federal Trade Commission's 2003 Red Flag Initiative*, FTC reported that “the significant decline in Red Flag claims (clearly deceptive)” was followed by “the increase in other types of claims that could be potentially deceptive” (132)

### **Current State of Advertising Ethics**

Based on the findings from *The Current State of Advertising Ethics*, the industry leaders who were interviewed “did not find (creating a commercial message that is both effective in selling and truthful) a difficult or perplexing issue with respect to traditional mass media.” As one said:

Is advertising truthful? It's very much an overblown and unrealistic criticism... Advertising does not fabricate stories about products or brands because that is self-defeating... It had become almost a moot point. Advertising, as far as product claims are concerned, is truthful, and I don't think that is an ongoing ethical issue.

The cases about OLAY and Whole Foods Market above just showed that these industry leaders were too confident on the current advertising ethics. While so many big corporations have been involved in the false advertising scandals, they didn't realize it was a huge issue. Their lack of attention on this issue would make the situation even worse.

In contrast to the results got for traditional media, the industry leaders acknowledged that “issues both difficult and perplexing arise in the environment created by new and nontraditional media” (86). They blamed the complexity of the environment

(Internet). One industry leader said, “How do we do the right thing in a media environment that is agnostic to being right?” I think this is just an excuse. They have control of their official websites and they have control of what they claim on the Internet. From their point of view, all the false advertisings are resulted from the uncontrollable factors of the Internet. I don’t think they had a neutral opinion and correct understanding on the current ethical issues of advertisings. They were trying to get rid of all the responsibilities.

From the perspectives of academic leaders, some of them did not think “many [faculty] are treating [ethics] as seriously as they should” (92). One of them said:

Other than a few lectures in a couple of classes, there is nobody really agonizing over ethics too much, and maybe they shouldn’t. This [department] is pretty clearly a commercial enterprise and pretty clearly designed to generate revenue for business.

Yet another observed, “I don’t see many people sitting around talking about ethics. They are sitting around talking about, ‘Does advertising work?’” (92)

### **Industry problem**

None of the problem I mentioned above is an individual organization’s problem. Many companies in the industry contribute to the problem. For the beauty industry, the false description of the beauty products and airbrushing are used commonly. It is not only about OLAY. Almost all the companies in the beauty industry have created similar advertisings or statements about their products. For food industry, false statement of the food products acts as a mean to hide the dark secret of the food production system as factory. The industry as a whole is problematic. For advertising industry, all the industry

leaders interviewed had similar opinions about the current advertising ethics, which I think are not neutral and correct. For marketing education, the ignorance of ethics is common among students and faculty in the department. One industry leader commented on the current situation of advertising industry in *The Current State of Advertising Ethics*:

When it comes to ethics, there needs to be a lot more collaboration within the industry... We need as an industry to come together and talk about this stuff more and come to some consensus. And that is not happening. The debate about what's right or wrong – What's ethical or not – is not being discussed very much in this industry. And I don't know why... The industry is not a collaborative industry.

The situation cannot be changed by an individual or single organization. If the industry acts as a whole, the systematic effect can be surprisingly huge. Right now, the industries as a whole are going in the wrong directions and industries are influencing each other. They are only looking at revenue and nobody cares about ethics. The systematic effects generated by a single industry and by industries acting on each other resulted in the common use of false advertisings.

### **How customers process the exaggerated advertisings**

Because customers have been around all different kinds of false or exaggerated advertisings everyday, they will evaluate the advertisings before they decide to accept or decline the information. In *Processing Exaggerated Advertising Claims*, the author made an assumption that “Government policymakers have taken the position that consumers recognize that puffery lacks credibility”. In FTC's three elements that contribute to



deception, the second one was to examine whether a consumer acts reasonably in the circumstance. In the case, *Leonard v. Pepsico, Inc.*, one of the reason for the judge to decide Pepsi Co. win the suit was that “the tongue-in-cheek attitude of the commercial would not cause a reasonable person to conclude that a soft drink company would be giving away fighter plans as part of a promotion”. Based on that, Government policymakers do expect consumers to be able to evaluate the exaggerated advertising correctly.

However, in *Processing Exaggerated Advertising Claims*, “the research presented here demonstrates that although consumers are able to identify an exaggerated claim as less credible”, “the claims are not judged to be not credible” and “exposure to the puffed claim still shifts the evaluation of the brand to be more positive”. Therefore, Government policymakers need to consider this factor and how companies might take benefit from customers by exaggerated advertising claims without legal charges.

### **Ethical advertising standards**

There is one available source mentioned in *The Current State of Advertising Ethics*. It provides a new system of advertising system in three aspects – truthfulness, human dignity and social responsibility (The Catholic Church’s Handbook on Ethics in advertising).

#### Truthfulness

“Even today, some advertising is simply and deliberately untrue. Generally speaking... it is not that advertising says what is overtly false, but that it can distort the truth by implying things that are not so or withholding relevant facts”. This concludes the current issues with advertising regarding truthfulness. Airbrushing is a typical example for distortion of message in advertisings. It provides us with the standard for truthfulness,

which is that “the proper exercise of the right to information demands that the content of what is communicated be true and, within the limits set by justice and charity, complete... Included here is the obligation to avoid any manipulation of truth for any reason.” To achieve this standard, the law should be stricter. The Government policymakers should not only consider the possible effects and consequences brought up by the advertising, but also the real motivation behind the advertising. For example, a fast food company has a much nicer and bigger hamburger in the advertising, but at the very bottom of the advertising, there are very small notes declaring that the photo is just for reference. Even though this is not deception, it is highly doubtful that the advertising does not mean to trick customers with such unnoticeable notes at the bottom. I think Government policymakers should consider situations like this and enact laws that restrict this kind of practice.

### Human Dignity

False advertising can change people’s values and their understanding about society, such as the insecurity and inferiority felt by women after being exposed to all the “fake” yet perfect faces in the advertising. Some marketers manipulate consumers’ mind using “appeals to lust, vanity, envy, and greed” in the advertising. Airbrushing in beauty advertising is a way to create envy and greed for women. Targeting to human weakness is not ethical at all.

### Social Responsibility

This concept contains almost every aspect about advertising ethics. Being trustful and not exploiting human weakness are also included in the area of social responsibility. In general, it requires “advertisers have a serious duty to express and foster an authentic vision of human development in its material, cultural and spiritual dimensions”. The best

way to incorporate this mindset to advertisers is through education. The educators for the marketing programs need to pay close attention to the ethical issues in the advertising industry and really teach the students to be ethical.

### **Conclusion**

Given two examples in the beauty industry and the food industry, we started to dig deeper into the issues of false advertising. We examined the enforcement power of FTC, the authoritative agency to administer the truthfulness of advertising, and found out the effectiveness of FTC was not satisfying. We heard the opinions from industry leaders and academic leaders and realized industry leaders' over confidence about the industry and the ignorance of ethical issues in marketing education. Because of these results, we determined that false advertising is worsened by the commonly unethical practices or ignorance of the issues in each industry. Due to the popularity of false advertising, customers are able to "identify the exaggerated advertising as less credible", according to the research. However, it still shifts their evaluation of the brand to more positive. The law requires customers to act in a reasonable manner and assumed that customers would not be affected by this exaggerated advertising. The fact is that they are affected by the exaggerated advertising. This assumption of law placed customers in an unfair position and should be changed. Based on the standards mentioned in the *Ethics in Advertising*, I recommend FTC banning airbrushing in advertising first, and then deleted the "reasonable person" element as part of the determination for deception. FTC should have stricter policy on the real motivation of the advertising. It should not mean to trick customer. FTC can also provide incentives for industry leaders to have discussions together about the ethical issues. The academic

component of the ethical issues in the marketing education should also be required. The improvement of advertising environment needs collaboration from every industry and FTC should be the leading organization in the process of this change.

## Reference

- "Airbrushed Twiggy Photo 'misleading'" BBC News. BBC, 16 Dec. 2009. Web. 7 May 2015. <<http://news.bbc.co.uk/2/hi/8415176.stm>>.
- Twiggy Gets Majorly Photoshopped in Olay Ad. Digital image. Skinny vs. Curvy. 17 Dec. 2009. Web.
- Hsu, Tiffany. "Suit Alleges False Advertising for Olay Anti-aging Products." Los Angeles Times. Los Angeles Times, 25 May 2012. Web. 07 May 2015.
- "Trial Size Regenerist Luminous Tone Perfecting Moisturizer." OLAY. N.p., n.d. Web. 07 May 2015.
- The Julia Roberts Lancome Ad Banned for Being Too Airbrushed. Digital image. News.com.au. 27 July 2011. Web.
- Adams, Mike. "Whole Foods Caught in GMO Marketing Deception, False Advertising - Here's the Proof." *NaturalNews*. N.p., 08 Oct. 2012. Web. 07 May 2015.
- "Whole Foods Market 2013 Annual Report." (n.d.): n. pag. *Whole Foods Market*. 2013. Web. 7 May 2015.
- Food, Inc. Dir. Robert Kenner. Movie One, 2008.
- Miss Representation. Virgil Films, 2012. Film.
- "FTC Policy Statement on Deception." *Federal Trade Commission*. N.p., 14 Oct. 1983. Web. 07 May 2015.

- "A Brief Overview of the Federal Trade Commission's Investigative and Law Enforcement Authority." *A Brief Overview of the Federal Trade Commission's Investigative and Law Enforcement Authority*. 1 July 2008. Web. 7 May 2015. <<https://www.ftc.gov/about-ftc/what-we-do/enforcement-authority>>.
- Avery, R.J, J.H Cawley, M Eisenberg, and J Cantor. "Raising Red Flags: the Change in Deceptive Advertising of Weight Loss Products After the Federal Trade Commission's 2003 Red Flag Initiative." *Journal of Public Policy and Marketing*. 32.1 (2013): 129-139. Print.
- Drumwright, Minette E, and Patrick E. Murphy. "The Current State of Advertising Ethics: Industry and Academic Perspectives." *Journal of Advertising*. 38.1 (2009): 83-108. Print.
- Cowley, E. "Processing Exaggerated Advertising Claims." *Journal of Business Research*. 59.6 (2006): 728-734. Print.
- Pontifical Council for Social Communications (1997), *Ethics in Advertising*, *Vatican City*: Vatican Documents.