

<http://www.consumerreports.org/cro/resources/Images/logo.gif>

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Product testimonials

The problem with "true stories"

Above, an ad for anti-wrinkle pads. Below, an ad featuring the same photo of a woman as the anti-wrinkle pad ad, but promoting a more invasive anti-wrinkle technique.

<[http://www.consumerreports.org/cro/resources/Categories/Money/Reports/Image  
s/0601tes001.jpg](http://www.consumerreports.org/cro/resources/Categories/Money/Reports/Images/0601tes001.jpg)>

'it's amazing!' That's what Dhyana Dahl said in an ad for anti-wrinkle pads, top, that criticizes "more-invasive techniques." Below, the same face endorses more-invasive techniques.

Has Madison Avenue called you for your close-up? If not, perhaps it's because ad agencies are overbooked. Everyone, it seems, is giving a supposedly true account of how a product has changed his or her life.

There's Joanne M. plugging the antidepressant Zoloft; Scott and Kim Johnson doing cartwheels over the Hyundai Elantra; and Mark M. praising the See Clearly Method for "better vision without glasses."

"Real" stories from ecstatic customers, doctors, and celebrities can tempt even the most jaded among us to believe, and manufacturers take that credibility to the bank. Ads featuring Olympic skater Dorothy Hamill helped propel sales of painkiller Vioxx to \$2.5 billion in 2003, before Merck & Co. pulled it from the market.

To help you sharpen your baloney detection, we looked at who regulates testimonials (primarily the Federal Trade Commission, but read on), what the rules are (guidelines usually without the force of law), how they're enforced (often, compliance is voluntary), and tricks of the trade.

The problem is that it's hard to tell which ads are true, which varnish the truth, and which are out-and-out lies. Joanne M.'s story in that Zoloft ad is "not based on actual person," according to a tiny footnote.

Scott and Kim Johnson did buy two Elantras. As for Mark M., he's real, but he still wore glasses for driving when he told his story in 1999, and as of August 2004, he was seeing clearly only with full-time corrective lenses.

WHO'S IN CHARGE?

Testimonials are largely self-regulated, with the government going after the biggest fish only after fraud has harmed the health or picked the pockets of lots of consumers. Most broadcasters, publishers, and Internet service providers don't make sure those "real" people exist or verify their claims. (The big three networks clear ads before they run, but local ads are often unchecked.) Among entities with some power over advertisers:

The FTC's Ad Practices Program. It's responsible for enforcing federal

truth-in-advertising laws, an amalgam of statutes, regulations, and guidelines covering everything from truthfulness to the use of "free."

Among the rules specific to testimonials: Experts must have the credentials and expertise their endorsement implies, and a professional group that backs a product should do so based on some direct comparison with competing brands. The "sticks" at the FTC's disposal include restraining orders, fines, restitution to consumers, and litigation.

Most cases are settled with offenders' agreeing to stop their misbehavior under consent orders. Although the FTC has taken about 100 advertisers to court over the past five years, it focuses its limited resources on the worst offenders.

The U.S. Food and Drug Administration. It sends warning letters when it finds misleading ads for prescription drugs, but it can also seize products and pursue criminal penalties. It has no guidelines for testimonials and has a staff of just seven to review direct-to-consumer ads.

State attorneys general and district attorneys. They can file charges against advertisers who violate state or local laws. Critics say the federal agencies don't have the money or staff to monitor the ad industry's output. Mary Engle, associate director for advertising practices at the FTC, replies that its budget has risen and that the agency can't act preemptively against potential fraud or deception. "There are tens of thousands of ads that run each year," Engle told us, "and we focus our resources on the ones that we think cause the most consumer injury." But that leaves less harmful ads mainly to the free market and industry self-regulation.

Better Business Bureaus' National Advertising Division (NAD). By default, it's the most accessible venue for keeping ads honest. The NAD operates a courtlike system in which anyone can challenge the veracity of national or regional ads. Challengers (mostly competitors) describe the deception, advertisers submit a defense, and the NAD experts suggest a change or not, based on federal rules and precedents from earlier NAD cases.

So far, so good. But participation in NAD investigations is voluntary. Five percent of companies whose ads are challenged don't participate in the process or don't comply with the decision, says David Mallen, assistant director for legal affairs at the NAD.

As we examined cases and spoke to experts, four "gotchas" stood out. See How <http://www.consumerreports.org/cro/personal-finance/product-testimonials-106/how-they-bend-the-rules.htm> they bend the rules.

#### What You Can Do

File a complaint. Explain in writing why an ad is misleading. Enclose originals or copies if possible. For a radio or TV ad, name the product, the claim, and where and when you saw the ad. Contact:

\* The NAD, at [javascript:Start\('http://www.nadreview.org'\)](http://www.nadreview.org)  
[www.nadreview.org](http://www.nadreview.org).

\* The FTC, at [www.ftc.gov/ftc/consumer.htm](http://www.ftc.gov/ftc/consumer.htm)

<javascript:Start('http://www.ftc.gov/ftc/consumer.htm')> . Click on "file a complaint."

\* Your state attorney general (<javascript:Start('http://www.naag.org')> www.naag.org), district attorney, or department of consumer affairs.