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NAD Enters the Spin Zone - Salad Spinner Superiority Claim Found Unsubstantiated

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A recent NAD decision about salad spinners illustrates several principles generally applicable to product testing used to substantiate superiority claims: (1) the test conditions need to be relevant to how the product performs in a typical consumer context; (2) the test results must be statistically significant; and (3) marketplace superiority claims must be supported by comparative testing on a broad range of competitive products.

The advertising claims at issue were made by a company named DKB Household USA Corp. for its Zyliss SwiftDry Salad Spinner. DKB touted that the SwiftDry spinner "Removes 25% More Water" with an asterisked footnote stating "*Average test results versus leading competitors."

Challenger OXO International Ltd. raised several deficiencies in the testing offered by DKB as substantiation for the ad claim. A significant problem was the use of sponges and absorbent cloth in lieu of lettuce or other forms of produce for purposes of measuring water extraction. In addition, DKB's testing only involved five trials of the product brands tested, and the data generated were quite variable. Finally, DKB only tested its SwiftDry spinner against two competitive brands — market leader OXO and Chef'n.

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NAD's holding that the ad claim of superior water removal was not properly substantiated was no spin job. First, NAD found that DKB did not adequately explain why it could not test the products on lettuce leaves or other representative produce, and concluded that "lettuce leaves would better approximate results that a consumer would experience.... NAD has consistently held that the most reliable measure of a product's performance is demonstrated by tests designed to test the products in the same manner the product is directed to be used by consumers."

Second, DKB's testing with a small sample size and wide variation in data did not yield statistically significant results. As NAD emphasized, "For claims that promise a quantified level of performance" it is particularly important to have statistically significant results "as the claim itself quantifies the benefit provided and testing should demonstrate that consumers will experience the claimed benefit."

Finally, NAD held that "in order to support a broad superiority claim such as the one at issue here, an advertiser must test a variety of competing products that comprise all or a substantial portion of competitive products [in] the market." DKB testing of just the OXO and Chef'n brands did not meet that standard. In the past, NAD has noted that 85% of the market is sufficient, but it didn't cite any specific number this time around.

What's the "spin" on this decision? To substantiate product superiority ad claims, advertisers must conduct product testing under consumer and product-relevant conditions; quantified performance claims must be statistically significant; and the ad claim must be tailored to the range of products tested — if only two competitive products are tested, say so in the ad. If a company wants to make a broad marketplace superiority claim, it must conduct tests on "all or a substantial portion" of competitive products.