CHAPTER 2
DECEPTIVE ADVERTISING: OVERVIEW OF LEGAL ISSUES

The advertising industry is regulated by a multi-tiered regulatory system. At the federal level, the Federal Trade Commission (hereafter FTC or the Commission) regulates advertising as part of its mission to protect consumers from unfair, deceptive, or fraudulent practices. Under Section 43 (a) of the Lanham Trademark Act (hereafter Lanham Act) advertisers who are damaged or are likely to be damaged by false representations made by a competitor can bring suit (Cohen 1969; Richards 1990a, Preston 1990; Wegman 1999). The National Advertising Division of the Council of Better Business Bureaus is charged with independent responsibility for monitoring and reviewing national advertising for truthfulness and accuracy.

The Legal Definition of Deception: The FTC

The Federal Trade Commission, through the Bureau of Consumer Protection, regulates advertising as part of its mission to protect consumers from unfair, deceptive, or fraudulent practices. The Deception Policy Statement specifically defines deceptive acts or practices prohibited by Section 5 of the FTC Act. The Commission usually takes action against advertisers when prompted by complaints from consumers, other advertisers, or other regulatory agencies. When the FTC believes a violation has occurred, it first attempts to obtain voluntary compliance from the advertiser through a

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10 Lanham Trademark Act, @ 43 (a) 15 U.S.C. @ 1125 (a), 1982.