

Nissan Motor Co., Ltd.

1406th Commissioners' Meeting (2018)

Case: Nissan Taiwan violated the Fair Trade Law by posting false advertising to market its car model "Infiniti Q50" series in 2018

Keyword(s): Car advertisement, safety assessment, false advertising

Reference: Fair Trade Commission Decision of October 17, 2018 (the 1406th Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 107091

Industry: Manufacture of Motor Vehicles (3010)

Relevant Law(s): Article 21(1) of the Fair Trade Law

Summary:

1. The FTC received complaints that Yulong Nissan Motor Co., Ltd. (hereinafter referred to as Nissan Taiwan), when marketing the 2018 Infiniti Q50 series (hereinafter referred to as the Q50 models), posted on the company website and in its car catalogs the claim that the Q50 models had passed "certification by the world's top three new car assessment programs" and the Q50 models was also rated by the US Insurance Institute for Highway safety (IIHS) as the "Top Safety Pick+". However, it was indicated on the IIHS website that the "Top Safety Pick+" rating for Q50 models had already been canceled since 2016. Meanwhile, the company also posted the wording of "US National Highway Traffic Safety Administration (NHTSA) 5-star Best Safety Protection" and "European New Car Assessment Programme (Euro NCAP) 5-star Best Safety Protection". False advertising was therefore involved.
2. Findings of the FTC after investigation:
 - (1) After requesting Nissan Taiwan to present its statement in writing and explain in person at the FTC, the FTC found out that Nissan Taiwan was the domestic exclusive agent for Infiniti cars. Since the domestic release of the Q50 models in 2014, the company had posted on its website and in its catalogs that the Q50 models had passed the safety assessment conducted by IIHS, NHTSA and Euro NCAP as well as the years in which the Q50 models passed the safety assessment. The three institutions were currently the most prestigious and credible car safety rating and testing organizations. For this reason, Nissan Taiwan used their names to make the safety of the Q50 models more convincing. After the 2018 Q50 models were domestically released on Oct. 31, 2017, Nissan Taiwan changed the advertising design on related websites and in its catalogs. Although the company continued to post the records of safety assessment conducted by IIHS and other international organizations, the years in which the Q50 models passed the safety assessment were not disclosed. For this, Nissan Taiwan admitted its negligence.
 - (2) At the request of the FTC, the Ministry of Transportation and Communications explained that one of the main purposes of the new car safety assessment programs (NCAPs) promoted overseas was to provide trading counterparts with car safety rating information for reference when purchasing cars. As a result of the advancements made in automobile technology, consumers were becoming increasingly aware of the importance of car safety and testing equipment and methods were also getting improved continuously.

Hence, the test items and rating standards of new car assessment programs in advanced countries were gradually increasing. Take the “Best Safety Pick+” of IIHS as an example, the rating standards adopted in 2018 were stricter than those applied in 2015. The Q50 models were selected as the Best Safety Pick+ in 2014 and 2015 and also given the NHTSA 5-star Award in 2014 and 2015 and the Euro NCAP 5-star Award in 2013.

3. Grounds for disposition:

When marketing the 2018 Q50 models, Nissan Taiwan posted on its website and in its catalogs the wording of passing “certification by the world’s top three safety assessment programs” as well as winning the “IIHS 5-star Best Safety Protection Award”, “NHTSA 5-star Best Safety Protection Award” and the “Euro NCAP 5-star Best Safety Protection Award” which gave consumers the impression that the Q50 models had passed the safety assessment certification by the worlds’ top three new car safety assessment programs, including IIHS. In reality, however, the Q50 models were selected as the Best Safety Pick+ in 2014 and 2015 and given the NHTSA 5-star Award in 2014 and 2015 and the Euro NCAP 5-star Award in 2013. Nissan Taiwan admitted the negligence of not disclosing the years in which the Q50 models passed the safety assessment by international organizations. In other words, since the safety information posted in car advertisements was an important consideration when trading counterparts made their transaction decisions, the inconsistency between the representation in advertisements for the Q50 models and the facts could cause consumers to have wrong perceptions about the quality of the product in question or even make wrong decisions. In consequence, the market competition mechanism would lose functions and unfair competition would be resulted. Therefore, the FTC concluded the conduct of Nissan Taiwan was in violation of Paragraph 1 of Article 21 of the Fair Trade Law and imposed an administrative fine of NT\$1 million by citing the first section of Article 42 of the Fair Trade Law.

Appendix:

Yulon Nissan Motor Co., Ltd.’s Uniform Invoice Number: 80032530

Summarized by Yang, Hsiang-Yu; Supervised by: Lai, Mei-Hua