

Momo.com Inc. & Click-on Creativity Co., Ltd.

1418th Commissioners' Meeting (2019)

Case: Momo.com and Click-on Creativity violated the Fair Trade Law by posting false advertisements to market the “aLovin LUNABUTIY thin body-shaping pants” on momoshop.com

Keyword(s): False advertising, lipid metabolism, reduction of fat formation

Reference: Fair Trade Commission Decision of January 9, 2019 (the 1418th Commissioners' Meeting); Disposition Kung Ch'u Tzu No. 108002

Industry: Retail Sale via Mail Order Houses or via Internet (4871)

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

Summary:

1. When marketing the “aLoving LUNABUTIY thin body-shaping pants (hereinafter referred to as the product at issue)” on momoshop.com, Momo.com Inc. (hereinafter referred to as Momo.com) and Click-on Creativity Co., Ltd. (hereinafter referred to as Click-on Creativity) posted an advertisement (hereinafter referred to as the advertisement at issue) claiming that the product at issue could “promote circulation and speed up discharge to strengthen the body,” “stimulate blood and lymph circulation,” “accelerate lipid metabolism,” “resist aging and whiten the skin,” and “reduce fat formation at the same time.” The two companies did not present any test reports to support the above claims. Therefore, the FTC thought false advertising was involved.

2. Findings of the FTC after investigation:

Momo.com and Click-on Creativity signed a “supplier cooperation agreement” according to which Click-on Creativity would provide the product at issue for Momo.com to market it on momoshop.com. Therefore, both Momo.com and Click-on Creativity were the advertisers of the advertisement at issue. As for the claims of “promote circulation and speed up discharge to strengthen the body,” “stimulate blood and lymph circulation,” “accelerate lipid metabolism,” “resist aging and whiten the skin,” and “reduce fat formation at the same time,” Click-on Creativity expressed that germanium, raspberry and caffeine had been added in the material for the product at issue as textile auxiliaries. As a result, the two companies quoted news coverage in the media that germanium could promote blood circulation and enhance metabolism, raspberries could help burn fat, and caffeine could speed up fat burning in the advertisement at issue.

3. Grounds for disposition:

(1) The claim in the advertisement at issue that the product at issue could “promote circulation and speed up discharge to strengthen the body,” “stimulate blood and lymph circulation,” “accelerate lipid metabolism,” “resist aging and whiten the skin,” and “reduce fat formation at the same time” gave people the impression that they could use the product and could therefore benefit from the claimed effects. The FTC's investigation revealed that Click-on Creativity made the claims by quoting news coverage in the media that germanium could promote blood circulation and enhance metabolism, raspberries could help burn fat, as well as caffeine could speed up fat burning in the advertisement because the three textile auxiliaries had been added in the material for the product. However, the news coverage in the media had been the result of studies of different elements and materials conducted by the media. Click-on Creativity did not provide any test reports based on medical theories or clinical tests.

Therefore, according to available evidences, it was obvious that the advertisement at issue was false and misleading.

- (2) As analyzed above, Momo.com and Click-on Creativity did not fulfill the obligation of advertisers to verify the claims before posting the advertisement for the product at issue on momoshop.com. Without any support of medial theories or clinical tests, they posted the claims that the product in concern could “promote circulation and speed up discharge to strengthen the body,” “stimulate blood and lymph circulation,” “accelerate lipid metabolism,” “resist aging and whiten the skin,” and “reduce fat formation at the same time.” The wordings were a false and misleading representation with regard to quality of product and they could affect consumers’ transaction decisions in violation of Paragraph 1 of Article 21 of the Fair Trade Law. After assessing the motive and purpose of the offenders for the unlawful act, the inappropriate profits expected, the level of harm to trading order, the duration of the unlawful act, the profit gained, the business scale, management condition and market status of each company, past records of violations, the level of remorse and cooperativeness throughout the investigation, the FTC cited the first section of Article 42 of the same law and imposed an administrative fine of NT\$50,000 on each company.

Appendix:

Momo.com Inc.’s Uniform Invoice Number: 27365925

Click-on Creativity Co., Ltd.’s Uniform Invoice Number: 24947701

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