

Case #7373 (02/10/2025)
Kevin Hart
Kevin Hart, Influencer
Challenger: National Advertising Division
Product Type: Miscellaneous
Issues: Disclosure
Disposition: Modified / Discontinued

BBB NATIONAL PROGRAMS

NATIONAL ADVERTISING DIVISION

NATIONAL ADVERTISING DIVISION,
Challenger,

KEVIN HART,
Influencer.

Case No. 7373
Closed 02/10/2025

FINAL DECISION

I. Basis of Inquiry

The advertising industry established the National Advertising Division (“NAD”) and the National Advertising Review Board (“NARB”) in 1971 as an independent system of self-regulation designed to build consumer trust in advertising. NAD reviews national advertising in all media in response to third-party challenges or through inquiries opened on its own initiative. Its decisions set consistent standards for advertising truth and accuracy, delivering meaningful protection to consumers and leveling the playing field for business. Challenger, National Advertising Division (“NAD” or “Challenger”), initiated this inquiry as part of its ongoing monitoring program into the nature of the relationship between Advertisers, JPMorgan Chase Bank, N.A. (“JPMC”) and Fabletics, Inc. (“Fabletics”), and their Influencer, Kevin Hart (“Hart” or “Influencer”), as well as the steps the Advertisers and Influencer have taken to ensure that Hart complies with the Federal Trade Commission’s Endorsements and Testimonial Guides.

II. Decision

A. Standard of Review

Kevin Hart is known for his successful career as an award-winning actor and comedian. He is also a prominent businessman, owning and investing in various companies, including Fabletics Men, and serving as an endorser for brands like JPMC. Hart maintains a significant social media presence, with 177 million followers on Instagram, where he frequently posts about his professional activities and the brands he supports.

NAD’s inquiry focused on whether Kevin Hart’s social media posts adequately disclosed his material connection with Fabletics and JPMC, while promoting their products on social media. In both the JPMC and Fabletics matters, NAD examined the sufficiency and placement of various disclosures on Hart’s Instagram profile, in posts that endorsed the respective brands.

The Federal Trade Commission (“FTC”) Guides Concerning Use of Endorsements and Testimonials in Advertising (“Endorsement Guides”)¹ state when there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement, and that connection is not reasonably expected by the audience, such connection must be disclosed ‘clearly and conspicuously.’ The Endorsement Guides provide that where an endorser receives monetary payments or the provision of free or discounted products, a material connection disclosure is required. Effective disclosures must clearly communicate the connection’s nature, enabling consumers to evaluate its significance.

During the inquiry, Kevin Hart argued his followers are likely aware of his connections to these brands due to his long-standing and public endorsements. Hart emphasized his high-profile status and his extensive promotional activities for both brands. According to Hart, he has been a public face for JPMC for five years, appearing in various media and public events. Similarly, Hart argued he is an equity owner of Fabletics Men and has actively promoted the brand since its launch in 2020.

While the FTC’s Endorsement Guides suggest that disclosures are not always necessary if the audience reasonably expects a connection between the endorser and the brand, where a significant minority of the audience for an endorsement does not understand or expect the connection, or would evaluate it differently knowing that the endorsement was motivated by a material connection, there should be a disclosure.² Further, consumers should know if content is promotional or advertising because it can impact the weight or credibility they give to the content. This knowledge can also impact the extent to which consumers wish to interact with content containing a promotional message.³

In the absence of any consumer perception evidence, NAD steps into the shoes of the reasonable consumer and uses its expertise to evaluate the reasonable expectations of the audience in the context in which the advertising is presented.⁴ In evaluating the reasonable expectations of the audience, NAD found that a significant minority of the audience might not be aware of Hart’s affiliation with Fabletics, potentially due to varying levels of engagement with athletic brands, comedians, or celebrity endorsements. Some viewers might not have seen prior promotions, while others might only be familiar with Fabletics through its original founders and influencers. As a result, NAD concluded that clear and conspicuous disclosure of Hart’s relationship with the brand is recommended.

Hart’s team advised NAD that he has updated the posts to include disclosures of his material connections with JPMC and Fabletics Men, in a clear and conspicuous manner. Hart indicated that he

¹ FTC Guides Concerning Use of Endorsements and Testimonials in Advertising; 16 CFR Part 255 (2024).

² “Clear and conspicuous” means that the disclosure is difficult to miss and easily understandable by ordinary consumers. FTC Guides Concerning Use of Endorsements and Testimonials in Advertising; 16 CFR Part 255 (2024).

³ See The FTC’s Enforcement Policy Statement on Deceptively Formatted Advertisements, https://www.ftc.gov/system/files/documents/public_statements/896923/151222deceptiveenforcement.pdf (“[A]dvertising and promotional messages that are not identifiable as advertising to consumers are deceptive if they mislead consumers into believing they are independent, impartial, or not from the sponsoring advertiser itself. Knowing the source of an advertisement or promotional message typically affects the weight or credibility consumers give it. Such knowledge also may influence whether and to what extent consumers choose to interact with content containing a promotional message.”).

⁴ *AT&T Services, Inc. (AT&T Internet)*, Report #6981, NAD/CARU Case Reports (November 2021).

and his team are and have been committed to complying with FTC Endorsement Guides. Hart also has contracts with both Fabletics and JPMC that require clear and conspicuous disclosures of material connections. Additionally, Hart has his own Social Media Guidelines to ensure compliance. Hart's social media team also regularly reviews his posts to ensure compliance, and they have systems in place to update posts with necessary disclosures. Hart indicated that despite the high volume of content Hart posts, his team works diligently to meet FTC requirements and brand guidelines, affirming Hart's commitment to compliance with FTC guidelines.

The voluntary modifications Kevin Hart made to his posts will be treated, for compliance purposes, as though NAD recommended the modifications and Kevin Hart agreed to such modification.

III. Conclusion

The voluntary modifications Kevin Hart made to his social media posts will be treated, for compliance purposes, as though NAD recommended the modifications and Kevin Hart agreed to such modifications.

IV. Advertiser's Statement

Kevin Hart will comply with NAD's Decision. We are pleased that NAD recognized the considerable efforts Mr. Hart and his team make to comply with the FTC's Endorsement Guides. Mr. Hart supports the self-regulatory process and appreciates NAD's thoughtful review. **(#7373 TR, closed 02/10/2025)**