

Traeger Pellet Grills LLC**Traeger Grills**

Challenger: Char-Broil, LLC.

Product Type: Leisure/Entertainment

Issues: Disparagement Claims; Implied Claims/Consumer Perception; Puffery

Disposition: Modified/Discontinued

- **Humor can be an effective and creative way for advertisers to highlight the differences between their products and their competitors. However, humor does not relieve an advertiser of its obligation to support messages that their advertisements might reasonably convey—especially when the advertising disparages a competitor’s product.**

Basis of Inquiry: Claims made by Traeger Pellet Grills LLC (“Traeger” or “the advertiser”) for its Traeger Grills made in commercials appearing on YouTube, Facebook on its website and elsewhere were challenged by Char-Broil, LLC, “Char-Broil” or “the challenger”), maker of competing charcoal, gas and other grills. The following claims served as the basis for this inquiry:

Express Claims:

“The problem with propane is that when you cook with gas, your food tastes like gas.”

Implied Claim:

Food cooked on gas grills tastes like gas (or food “tastes like ass”)

Challenger’s Position:

Char-Broil explained that today’s consumers can choose from grills that are fueled by gas, charcoal, wood pellets, or electricity. Char-Broil markets charcoal, gas, electric, portable, infrared and other grills. While each grilling technology has its share of devotees, gas grills have enjoyed increasing popularity in recent decades and today represent over 60% of all purchases in the category.

Traeger Grills (“Traeger”) a brand that specializes in wood pellet-burning models, generally referred to as “pellet grills”—launched a series of commercials falsely disparaging the entire gas grill category. The spot opens with a cool, confident protagonist standing next to his “original wood-fired Traeger grill.” He points over at his neighbor—a bumbling caricature of a man who is sparring with his own grill’s exaggerated flames—and states, “that’s a propane gas grill.” He shouts to his neighbor, “Hey Buddy, what flavor propane [are] you cooking with?” The neighbor responds, smiling proudly but stupidly, “Gas!” He holds up a piece of burnt, smoking meat with his tongs, sniffs it and turns to his group of friends gathered on his lawn and announces, “Smells like gas! Let’s eat!”

The Traeger griller then states, “the problem with propane is that when you cook with gas, your food tastes like gas.” One party-goer, eating the gas-grilled hamburger turns to the others and asks, “are you guys tasting this?” Other party-goers, tasting hamburgers and hot dogs just off the gas grill respond with looks of disgust and, one after the next, state that their food “tastes like gas.” The protagonist states, “[if] you want food that doesn’t taste like gas, try it on a Traeger” and “stop making food that tastes like gas.” This

phrase is repeated so many times¹ and spoken so quickly, that it sounds like the actors are saying that the gas-grilled food “tastes like *ass*”—an intentional turn of phrase as Traeger concedes.

Traeger’s references a study indicating that “making food taste great” is the second-most important attribute consumers consider in their purchasing decision; 91% of gas-grill owners identified this as a significant attribute. Traeger’s use of questionable humor does nothing to obscure the express message communicated which is clearly intended to influence consumers’ purchase decisions. Noting that NAD is particularly wary of advertising that portrays a competing product as revolting or unpalatable, Char-Broil argued that Traeger’s “tastes like gas” claim falls squarely into the category of extreme denigration. Worse yet, its claim could be reasonably understood to mean that food cooked on gas grills is contaminated with gas and thus unsafe or unhealthy for consumption.

Char-Broil asserted that Traeger’s sophomoric humor does not relieve it of its obligation to support its objective and extraordinarily pejorative claims. Further, Traeger’s advertising frames its “opinion” as fact, conveying an objectively provable claim that cannot be substantiated.

Contrary to Traeger’s claims, top restaurants, award-winning chefs, and backyard grillers have, for decades, been using gas to cook meats to perfection, with no undesirable effect on taste. According to a 2017 survey by the Hearth, Patio, and Barbecue Association, “gas is the most popular grill type,” with 64% of respondents owning or planned to buy gas grills, followed by charcoal (44%), electric (9%), and wood pellet (3%.) The survey also found that 72% of Americans grilled for the “flavor,” which is clearly the focus of Traeger’s message. Its “tastes like gas” claim, however, is undermined by the survey’s findings. Given that most Americans grill for the “flavor,” and a majority of grillers own or plan to buy *gas* grills, gas grills are obviously not associated with an adverse taste.

The “tastes like gas” claim is also belied by industry reviews. In their 2019 reviews for gas grills, neither *Wirecutter* nor *Consumer Reports* make any suggestion that gas grills produce a gas-taste. In light of these publications’ exhaustive lists of pros and cons, the absence of an adverse impact on taste is a silence that is expressive. Further, Professor Greg Blonder, author of *New York Times* best-seller “Meathead, The Science of Great Barbecue and Grilling,” conclusively refuted the notion that cooking with gas imparts an unappealing taste due to the presence of gas, calling it a complete falsehood.²

Notably, Traeger admits that “viewers are most likely to receive the claim that food cooked on a propane gas grill ‘tastes like it was cooked with gas’”—an unremarkable observation given the express nature of the repeated claim. It further stated that “[p]ropane gas is only a fuel used to cook on the grill, it is not an ingredient and *it doesn’t impart any flavor or scent.*” Despite these admissions proving its express claims to be false, Traeger disregards its obligation to substantiate its express claims (which require no inquiry into meaning), overlooks NAD precedent (holding that claims about specific, measurable and material attributes of a product, even if humorous, must be substantiated), and ignores the implied claim message clearly conveyed. Instead, it argues that the “silly and farcical” commercial does not convey a disparaging message but will be understood by consumers as puffery. However, humor does not transform the objective to the subjective.

¹ More than one dozen times within the first 30 seconds of the 60-second version, Traeger expressly states that food prepared with propane “tastes like gas” or “tastes like ass.”

² See, [amazingribs.com/ratings-reviews/how-to-buy-a-grill/charcoal-vs-gas](https://www.amazingribs.com/ratings-reviews/how-to-buy-a-grill/charcoal-vs-gas).

Having made no attempt to substantiate its express claims, Traeger conjures an implied claim that it argues it can substantiate. It asserts, without any extrinsic evidence, that consumers will “perceive ‘tastes like gas’ to mean ‘tastes like no additional flavor was added by fuel.’” Even if this was true (and it is not) Traeger is still obligated to substantiate its express claims and all other implied claims reasonably conveyed. It has failed to do so.

Advertiser’s Position:

Traeger explained that it invented the original wood-fired grill thirty years ago and continues to lead the industry as the world’s #1 selling wood-fired grill and the popularity of the Traeger brand is booming. Traeger further explained that wood-fired grilling imparts unique flavor that people crave.

Traeger contended that its lighthearted and undeniably funny commercial does not convey the messages alleged by Char-Broil about propane grills. Rather, viewed in context and in its entirety, the outlandish tone of the spot makes it highly unlikely that any reasonable consumer would interpret the “tastes like gas” or “tastes like ass” statements as fact. The comedic nature of the commercial is introduced at the outset by the interaction of the cool, confident Traeger griller Traeger grill and the buffoonish, bumbling neighbor using his gas grill. These elements signal to any reasonable consumer that what follows is a clever, funny commercial and that the purported “claims” are not to be taken seriously. This comedic tone is furthered by the Traeger griller pointing to the propane grill and asking, “Hey buddy, what flavor propane are you cooking with?!” and the buffoonish and over-acting party host responding “GAS!” in an exaggerated manner, with a ridiculous facial expression as he fumbles clumsily with his grill. The party host then sniffs what he is cooking and exclaims “Smells like gas! Let’s eat!”³

Traeger asserted that the very question, “[w]hat flavor of propane are you cooking with?” alerts the viewer to the realization that propane does not come in different flavors. In contrast, the wood pellets used in wood pellet grills can be derived from hickory, cherry, mesquite, etc. and *are* treated as an ingredient in wood-fired grill recipes and *do* impart wood-fired flavor. The party host’s response “Gas!” and “Smells like gas! Let’s eat!” drives home this differentiating point. Propane gas is only a fuel used to cook on the grill—it is not an ingredient and imparts no flavor or scent, unlike wood-fired smokers.

What follows in the spot is a key consideration in the analysis of the message conveyed. The Traeger griller states “The problem with propane is when you cook with gas, your food tastes like ass.” Earlier in the spot, he clearly enunciates the hard “g” in the word “gas” (as does the neighbor). However, when he explains the “problem” with cooking with gas, is that “your food tastes like . . .” he intentionally, as directed, drops the “g” from gas and says “ass” instead. This triggers the punchline and point of the commercial: to amuse the viewer with actors repeatedly substituting “tastes like gas” with “tastes like ass” in a variety of obviously funny ways, such as “this dude cookin’ food that tastes like ass.” However, a review of the actors’ faces doesn’t support Char-Broil’s suggestion that they appear disgusted, and no reasonable consumer would take away a message of actual revulsion. Rather, as intended, reasonable consumers will recognize these comedic cues and understand that the commercial is light-hearted farce, not to be taken seriously. Indeed, the challenged claims are unverifiable, ridiculous statements and the

³ The silly music also signals to the viewer the commercial’s comic nature.

phrase “tastes like ass” is inarguably puffery—hyperbole or opinion that is not subject to proof, and the truth and accuracy of which cannot be determined.

A larger context highly relevant to NAD’s analysis of the messages conveyed by the commercial is premised on consumers’ prior knowledge and understanding of propane grilled food. As Char-Broil noted, grilling is ubiquitous in American culture and gas grills are the most widely used type of grill. In fact, 79% of adults currently own a grill.⁴ Thus, it is likely that nearly every American adult has prepared or enjoyed food from a propane grill, and most do so regularly throughout their lives. As such, the target audience is intimately familiar with food grilled with gas and the taste that cooking on a gas grill imparts (or doesn’t impart) to food. If NAD is to step into the shoes of the reasonable consumer to determine the takeaway from the commercial, this consideration must be top of mind. Consumers’ familiarity with gas grills is why the line “Hey buddy, what flavor propane are you cooking with?” works. They know gas doesn’t have flavor and doesn’t impart any flavor to food cooked on the grill.

The point of this commercial is to highlight the fact that propane is merely a fuel used for cooking that does not involve flavor but that wood fuel can affect flavor because it is associated with adding flavor to the food. Not only is this a matter of general consumer knowledge⁵ and common sense, but Traeger provided objective and prior substantiation for this claim. As explained in the 2018 Mintel report, “[c]onsumers use specific fuels based on the need for convenience or flavor. Fuel sources are perceived to have very distinct benefits: propane is associated with easy-to-use attributes, while charcoal/smoke/wood fuel sources have a strong association with flavor.” Similarly, the 2018 Russell Marketing Research Report⁶ discloses that nearly double the number of respondents (50%) rated wood pellet grills as “making food taste great” when compared to those who rated gas grills as “making food taste great.”(29%).⁷ This evidence supports the proposition that wood fueled grills are strongly associated with adding more flavor to food than gas grills.

Traeger’s lighthearted, farcical commercial does not convey the disparaging messages alleged by Char-Broil but, rather, constitute mere puffery. Traeger merely highlights the fact that propane is a fuel used for cooking that does not impart any flavor but that wood fuel (i.e., the pellets used in Traeger Grills), acts as an “ingredient” that does impart flavor to foods—a fact associated with its wood pellets.

Decision:

NAD has long recognized that humor can be an effective and creative way for advertisers to highlight the differences between their products and their competitors.⁸ However, humor does not relieve an advertiser

⁴ 2018 Mintel Report.

⁵ Char-Broil’s discussion of the many reasons that food grilled on a gas grill does not taste like gas only serves to demonstrate its miscomprehension of the challenged spot.

⁶ Commissioned by Traeger from Russell Marketing Research, Inc., a third-party research company, to help assess Traeger’s brand strength and industry trends.

⁷ The survey population consisted of 2,010 respondents and were conducted in an objective manner by qualified persons using generally accepted procedures.

⁸ See, Reynolds Consumer Products (Hefty Ultra Strong Trash Bags), Report #6049, *NAD/CARU Case Reports* (January 2017).

of its obligation to support messages that their advertisements might reasonably convey⁹—especially when the advertising disparages a competitor’s product¹⁰ or communicates false implied messages.¹¹

The advertiser contends that its claim that food cooked on a propane grill “tastes like gas” (or “taste like ass”) in the context of its farcical, over-the-top commercials, is so outrageous that no reasonable consumer would take seriously and that, in context, amounts to mere puffery not an affirmation of fact. NAD disagreed.

In determining whether or not a claim constitutes puffery, NAD considers several factors including whether the representations concern general matters that cannot be proven or disproved; whether the statements are distinguishable from representations of specific characteristics that are measurable by research or test, or whether the wording uses expressions of opinion that will be discounted by the buyer.”¹² Specifically, NAD considers whether the challenged advertising “refers to specific attributes which are likely to suggest that a product is comparatively better in some recognizable or measurable way.”¹³ If the commercial communicates this message, “even in a humorous way, such message requires substantiation.”¹⁴ The claim at issue here is an express one—communicated in both language and via the facial expressions of the party-goers—that food cooked on a gas grill (such as Char-Broil’s)¹⁵ results in food that “tastes like gas” (or “tastes like ass”)—that is to say that use of propane imparts a distasteful flavor to the food. This is an inherently objectively provable claim which requires reliable taste testing as support. No such evidence was provided by the advertiser. The advertiser takes this unsupported claim and, thereafter, via repetition and speed, amplifies this message to claim that food cooked on a gas grill, “tastes like ass.”

The advertiser asserts that grilling is so ubiquitous in American culture that consumers will not take its claims seriously. It is in this context, Traeger argues, that NAD must review the challenged commercial to discern the reasonable messages conveyed. In support of this position, the advertiser points to the Mintel Report which states that 79% of adults currently own a grill. However, the report states that less

⁹ See, Mercedes-Benz (Mercedes GL Class), Report #4538, *NAD/CARU Case Reports* (August 2006).

¹⁰ Reynolds Consumer Products (Hefty Ultra Strong Trash Bags), Report #6049, *supra*; Charter Communications, Inc. (Spectrum Television Service), Report #6030, *NAD/CARU Case Reports* (September 2016); DirecTV, LLC (Picture, Sound, Signal Reliability and Customer Service Advertising), Report #5820, *NAD/CARU Case Reports* (March 2015).

¹¹ See, Fuhu, Inc. (Nabi2 Tablet), Report #5563, *NAD/CARU Case Reports* (March 2013); Campbell Soup Company (Campbell’s Select Harvest Soups), Report #4981, *NAD/CARU Case Reports* (March 2009).

¹² French’s Food Company (French’s Tomato Ketchup and French’s Mustard), Report #6119, *NAD/CARU Case Reports* (September 2017); Campbell Soup Company (Campbell’s Select Harvest Soups), Report #4981, *supra*.

¹³ See, Dollar Shave Club, Inc. (Dollar Shave Club Razors), Report #5843, *NAD/CARU Case Reports* (May 2015).

¹⁴ Id.

¹⁵ The fact that Char-Broil is not mentioned by name is of no moment. Contrary to the advertiser’s position that absence of a named competitor ensures that reasonable consumers will not take any of the claims in the commercial seriously, there is no basis for such a conclusion. Indeed, in cases involving advertising that makes no specific mention of any competitor by name, NAD has determined that the claims can reasonably be interpreted as referring to the advertiser’s “larger competitors” based on their position in the marketplace. See, SPD Swiss Precision Diagnostics (GMBH) (Clearblue Easy Digital Home Pregnancy Test), Report #5282, *NAD/CARU Case Reports* (January 2011); Church & Dwight Co., Inc. (Arm & Hammer Slide Cat Litter), Report #6137, *NAD/CARU Case Reports* (December 2017). Here, Traeger’s claims will be reasonably understood as referencing the entire gas grill marketplace, of which Char-Broil is a major player.

than half of adults (48%) own gas grill,¹⁶ meaning that more than half (52%) do not.¹⁷ As such, the advertiser's assertion that "it is likely that nearly every American adult has prepared or enjoyed grilled food from a propane grill, and most do so regularly throughout their lives" and that, therefore, "the target audience is intimately familiar with food grilled with gas and the taste that cooking on a propane grill imparts (or doesn't impart) to food," is merely speculative. Indeed, a substantial segment of the population may have no idea as to whether gas grills do or do not impact the flavor of food cooked on such grills.¹⁸ Matters of "taste" or "flavor" are inherently subjective and somewhat suggestible, and the impact of any claim concerning the taste that propane may or may not impart to grilled food will necessarily be highly impactful. Traeger's own evidence indicates that "making food taste great" is the second-most important attribute consumers consider in their purchasing decision and that 91% of gas-grill owners identified this as a significant attribute.

NAD concluded that consumers will reasonably take away the message from the challenged commercial that gas/propane grills impart an undesirable flavor to cooked food because that is specifically what the challenged advertising expressly communicates—a message that Traeger acknowledges is untrue. In essence, its argument goes that the target audience, because of their experience, understand that food cooked on a gas grill does not "tastes like gas" ("or tastes like as)—that is to say, that the claim is untrue—and that therefore, its over-the-top farcical presentation of this unsupported message is simply made that much funnier. No amount of humor, however, can rectify an expressly false claim.¹⁹

The parties cite to various prior cases in which NAD has evaluated the reasonable messages conveyed by advertisements. Key, however, is that the issue presented in the instant matter does not rest on the messages reasonably conveyed (implied) by the advertiser's commercial. Traeger acknowledges that its advertising was intended to expressly convey (in a farcical manner) the unbelievable message to consumers intimately familiar with gas grilling that food prepared with propane "tastes like gas." It further admits that the actors "intentionally, as directed," say "ass" instead of "gas" when talking about food prepared on a gas grill.²⁰ As such, the distinguishing factor between the cases cited by the parties and the instant case, is that (1) the message communicated is express and (2) the message that food prepared on a propane grill, "tastes like gas" or "tastes like ass" rests on a undisputedly false premise.

¹⁶ 40% own a charcoal grill, 23% own an electric grill and 25% own some type of smoker/roaster.

¹⁷ Even using the research provided by Char-Broil, only 64% of adults own or plan to own a gas grill, meaning that, at a minimum, 36% do not currently own a gas grill.

¹⁸ Additionally, any grills—charcoal, gas, wood-pellet—must be operated properly and can make food taste good or bad.

¹⁹ To find otherwise, would permit advertisers free reign to make outrageous expressly falsely denigrating claims about their competitors' products and rest on the defense of such claims by asserting that consumers simply won't believe it. Such a result is untenable. Further, insofar as consumer researching grills prior to purchase may learn that, in fact, gas grill do not impart a "gas-like" taste to food, the fact that a consumer ultimately learns the truth about a product prior to purchase does not negate an advertiser's dissemination of an express, unsupported claim in the first instance.

²⁰ Even if such were not Traeger's intent, the issue of an advertiser's intent is not essential to NAD's evaluation of the messages reasonably conveyed by its advertising. In any event, any claim found by NAD to be reasonably conveyed by an advertisement need only be *one* of the reasonable messages conveyed. If reasonably conveyed, it must be supported. See, Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019); Rubbermaid, Inc. (FreshWorks Produce Saver Containers), Report #6102, *NAD/CARU Case Reports* (August 2017); Philips Oral Healthcare, LLC (Sonicare FlexCare Platinum Toothbrushes), Report #6073, *NAD/CARU Case Reports* (April 2017); Church & Dwight Co., Inc. (Arm & Hammer® and Xtra® Liquid Laundry Detergents), Report #5655, *NAD/CARU Case Reports* (December 2013).

Campbell's Select Harvest Soups,²¹ concerned the reasonably messages conveyed by a commercial featuring a woman who is “blind tasting” the challenger’s Progresso soup alongside Campbell’s Select Harvest soup. When asked to describe the Progresso soup, the woman responds by calling out the “chemical-sounding” ingredients, by saying, “Sodium Stearoyl Lactylate,” “Hydrolyzed Vegetable Protein” and others. Campbell asserted that consumers viewing the commercials would not reasonably believe that they are witnessing an actual taste test, would understand that they are witnessing a funny “mock” taste test, and that “the woman’s uncanny ability to identify complex ingredients ... is clearly outside the realm of human possibility and, therefore, was mere ‘puffery’” NAD did not agree, noting that, humor notwithstanding, “expressly or implicitly disparaging claims can damage a product’s market share and, therefore, scrutinizes such claims to ensure that they are truthful, accurate and narrowly drawn.”²² NAD stated that, even accepting the advertiser’s contention that no consumer’s palate is sensitive enough to detect the artificial ingredients, the mere fact that these are the first and only ingredients mentioned as components in the challenger’s soup and that they appear in sufficient quantity to be tasted, could reasonably be interpreted to mean that they are present in significant quantities in the challenger’s Progresso soup products, or that the Progresso soup is made largely of these ingredients—all unsupported falsely denigrating messages. Distinguishable from the instant case is that the premise of the Campbell’s advertising began with the truthful fact that the competitor’s soup actually contained the named ingredients (whereas the advertiser’s soup did not). The spot then proceeded, in a humorous manner to expand on that theme. Humor, however, was insufficient to relieve that advertiser of its obligation to support the implied messages conveyed by its commercial

Likewise, in Arm & Hammer Slide Cat Litter,²³ NAD reviewed a commercial in which cat owners were depicted as struggling to clean their cat litter boxes using a variety of tools such as a hammer, scraper, power-washer, and jackhammer, as the voiceover states “The scraping. The scrubbing. The pounding. The blasting.” The undisputed evidence in the record demonstrated that consumers were, in fact, dissatisfied with the extent to which their litter adheres to their cat litter boxes and considered this to be a top-tier purchasing consideration. It was the advertiser’s intent to show, in a humorous fashion, the “stuck-on mess” left behind by competing cat litters as compared to its own product. The litter pan being emptied of the advertiser’s Slide Cat Litter showed zero adherence of the litter to the pan.

In that case, NAD found that the outlandish scenarios depicted in the commercials served to humorously highlight the very real problem (and frustration) which some cat owners may face with existing litter products when emptying their cat litter boxes.” Consequently, NAD found that the subsequent side-by-side product demonstrations merely “crystallized a comparative message that the problem of stuck-on cat litter caused by competing, unnamed cat litter products can be a frustrating and time-consuming problem for cat owners and that using Slide cat litter can eliminate this source of frustration.”—a message that was “truthful and accurate in light of the advertiser’s test results.” In other words, the challenged commercial was premised on evidence of a product distinction and merely

²¹ Campbell Coup Company (Campbell’s Select Harvest Soups), Report #4981, supra.

²² Id. citing Verizon Services Corporation (Verizon FiOS Service), Report #4930, *NAD/CARU Case Reports* (November 2008); Schering-Plough HealthCare Products (Claritin), Report #4879, *NAD/CARU Case Reports* (July 2008); The Procter & Gamble Company (Swiffer Dusters), Report #4226, *NAD/CARU Case Reports* (September 14, 2004); Schering-Plough Healthcare (Lotrimin AF Spray Liquid), Report #3722, *NAD/CARU Case Reports* (January 2001).

²³ Church & Dwight Co., Inc. (Arm & Hammer Slide Cat Litter), Report #6137, *NAD/CARU Case Reports* (December 2017).

highlighted a truthful, fact-based difference between the parties' products in a humorous manner that, in context, consumers would be unlikely to interpret as realistic depictions of competing products.²⁴

In Pace Picante Sauce,²⁵ the challenged commercial depicted two sheriffs in cowboy hats, sitting at a diner counter. One of them runs out of Pace Picante Sauce and when the waitress hands him a generic bottle of sauce, he looks at it, frowns, and states that (unlike Pace Picante Sauce, made in San Antonio), "Why this stuff's made in... New York City!" Other customers shout "New York City?!" The sheriff then tells the waitress, "darlin'... we're just gonna have to shut you down." The voiceover at the end states, "Spice up all your foods. Pick up the Pace." NAD noted that a statement about pride of place of a product's manufacture is quite different from one which overtly or impliedly claims superiority resulting from place of manufacture. NAD found that the challenged commercials presented the former not the latter. In this respect, NAD noted, the ads also materially differed from the challenger's cited case because all of the explicit claims in question there were literally false. Although NAD noted that, the use of humor can determine whether any claim [of superiority resulting from place of manufacture] is actually being made about a competitor or not, and in this instance, it is not," it specifically stated, NAD did "[not] disagree about humor not being a defense for misrepresentation. Here, Traeger attempts to use humor as a defense to its misrepresentation that food cooked on a propane grill "tastes like gas"[(or tastes like ass)].

Lastly, the advertiser also asserted that the claim "tastes like gas" will be understood by consumers to reference the distinction between the gas used in more traditional grills, which impart no flavor and its wood pellets used in Traeger grills which can be derived from hickory, cherry, mesquite, etc. and are treated as an "ingredient" in wood-fired grill recipes and used to impart a wood-fired flavor. Accordingly, Traeger argues, its "tastes like gas" language will be understood by consumers to mean that the food cooked on a gas grill "tastes like no additional flavor was added by [the] fuel." This is a wholly different message than that conveyed by the challenged commercial which expressly communicates the unsupported message that gas grills, in fact, impart a propane or "gas" flavor to food cooked on such grills—a falsely denigrating message. Moreover, even assuming that a comparative message such as Traeger posits can be substantiated,²⁶ the execution of such a message would depict a person eating, for example, a hamburger cooked on a gas grill that simply tastes like a hamburger (with *no* flavor imparted by the grill) as opposed to an individual eating a hamburger cooked on a Traeger grill and detecting, for example, a hickory or mesquite-smoked flavor delivered by the respective wood-pellet fuel.

Conclusion:

NAD concluded that the advertiser's claim "[t]he problem with propane is that when you cook with gas, your food tastes like gas" (that food grilled on a propane grill "tastes like gas" or "tastes like ass" were

²⁴ See also, Procter & Gamble Co. (Swiffer Dust & Shine Furniture Spray), Report #5141, *NAD/CARU Case Reports* (February 2010) (Where NAD reviewed a commercial highlighting the difference between the advertised product—which contained Febreze to help eliminate odors while cleaning—versus a competing polish (without Febreze), to the tune of the J. Geils Band's song, "Love Stinks." NAD concluded (and NARB affirmed) that viewers would not interpret the commercial to mean that competing polishes smell bad (stink) but rather would take away the truthful message that Swiffer Dust & Shine is unique in that it has the added odor-eliminating benefit of Febreze that competing products do not).

²⁵ Pace Foods, Ltd. (Pace Picante Sauce), Report #3188, *NAD/CARU Case Reports* (March 1995)

²⁶ Such a claim would necessarily require support in the form of well-conducted taste testing as well as, depending upon the claim, well-conducted consumer preference testing.

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not puffery but, rather, unsupported objectively provable (and falsely denigrating) taste claims and recommended that they be discontinued.

Advertiser's Statement:

Traeger Pellet Grills LLC will comply with NAD's recommendations. While Traeger Pellet Grills LLC appreciates the self-regulatory process and the work that NAD does, it respectfully disagrees with NAD's finding that the advertising at issue here would not be considered farcical and humorous "puffery" by reasonable consumers. **(#6327 MSZ, closed 12/05/2019)**