

advertising practices should be based on a presumption of immorality. A common retort to that conclusion is the claim that the consumer has a responsibility to act warily against deception. A consumer who is taken in by some intentionally deceptive advertisement is at fault for failing to be adequately vigilant. We accept that consumers have responsibility for falling prey to the more obviously deceptive advertisements; the retort still misses the point. If the responsibility is present, as it is assumed by those who claim that consumers are at fault, and if advertisers trade upon the fact that consumers will fail to process the deception, then consumers are still subject to the charge of moral responsibility. The mere intent to deceive that supports the charge of immorality. If I walk onto a used car lot and see a car that has illegally turned back the odometer to have fewer miles than it actually has, I might be able to catch the deception. I might, however, be lulled by the more of the excessive wear on the seats and the fact that the attempted deception was not for package goods. The fact that the attempted deception was not for package goods does not diminish its immorality. And if I see the deception and bought the car, even if I am responsible for believing the sales pitch, the advertiser's responsibility does not amount to absolution of ethical wrong. The consumer's responsibility is not relevant one way or the other to the question of whether intentional deception is immoral.³

ADVERTISEMENTS

Our assessment for the morality of advertising is one to apply, however. Any particular advertisement requires speculation about the largely private intentions of the advertiser. We need to have some way of knowing our interpretation of a person's intentions are not completely inaccessible, and we must make reasonable presumptive judgments about many advertisements just from their content. As a first step in evaluating whether an advertisement is deceptive, we can categorize some advertisements and discuss some examples. We will attempt to communicate a message that is deceptive. The vehicle of that communication is a variety of forms. There is the linguistic form of the communication, of course—what is said and omitted. But of equal importance is the visual form of the communication (at least for ads other than

those on radio!). An anecdote from the political arena can help emphasize the importance of this category of communication. During Ronald Reagan's second presidential campaign, news reports were often critical of his policies. One such report had a visual of Reagan on the campaign trail. He was on a bandstand, surrounded by American flag bunting, cheerleaders, a pep band, and a cheering crowd. The news reader's voice-over was presenting a criticism of a Reagan policy. After the news spot aired, a Reagan press aide purportedly called the network to thank it for the helpful news story. He said that what the viewer would carry away was the positive image from the video footage, not the critical commentary. This point about the power of visual images can be even more true for commercials.

Examples where we can presume intended use of visuals to deceive are easy to find. Some classic ones are the following: (1) A shaving cream commercial that claimed the cream was so good at softening beards that it could even be used to shave sandpaper. The camera showed a razor apparently removing the grit from sandpaper that was sprayed with the foam. What was actually photographed was a piece of glass set against a tan background and sprinkled with loose sand. The razor had no blade. (2) A soup commercial touting its new chunky style loaded with vegetables. The picture showed a bowl with the vegetables mounded high above the broth. What was not disclosed was that the bowl had marbles in it to raise the vegetables for better display. (3) A car commercial that advertised the safety of the car, especially in rollovers, where the roofs of many vehicles collapse onto the passengers. The car was the only one in a group to withstand a "monster truck" rolling over it. The vehicle was not a stock model but was rather one with a specially reinforced roof.

In each of these examples, we can presume that the advertiser intended to deceive with the visuals because in each case the product was made to appear as something it was not. This is true regardless of whether the shaving cream was more effective than competitors at softening beards, whether the soup was indeed chunky, whether the car was safer than others in rollovers. It will not do, either, for the advertisers to defend themselves by saying that they merely intended to visualize a real product attribute, because that intended goal was achieved by a means that intentionally misrepresented the product in its visual display. Agents are, of course, responsible for the means they use as well as the ends they pursue.

More contemporary, and perhaps more controversial, examples of presumptive intent to deceive with visuals