

(and with language) have been proposed by students in business ethics classes. You should consider each of the following examples and decide whether it is reasonable to conclude that there was deceptive intent.

One example concerns a commercial for a child's action toy that is displayed against a background that makes the toy look larger, more realistic, and capable of more movements than it actually is.

A second contemporary example is an ad for a brand of fat-free cookie. The ad shows a group of, shall we say, physically imposing women pursuing a cookie delivery man. The cookies are fat-free but they are definitely not low-calorie. Yet the visuals may be taken to suggest that the women are interested in the product for weight-loss reasons. It is certainly true that the choice of women of this particular body type was a conscious decision by the ad team. (Note that most products try to associate themselves with more svelte body types.)

Another recent example might be frozen dinner packages with cover photos of a "serving suggestion." In reality, it would be difficult to make the contents of the package appear on the plate as does the food in the photo. All of these cases were proposed as cases where it is the advertiser's intentional decision to visually communicate messages that can be described as misleading. While those judgments are surely speculative to some degree, the conscious design of the ads makes it reasonable to question the intent of those creating them.

Similar questions can be raised about misleading intent based on the linguistic element of advertisements. Few ads these days make directly false statements. Ads can be designed, though, to deceive by ambiguity in their actual statements, by what advertisers hope the public, or some portion of it, will take as an implication of what was said, or by the intentional omission of pertinent information.

Food nutrition claims of the past decade have been notorious for misleading with carefully crafted use of language. (In fact, they have been so notorious that both the FDA and FTC have issued guidelines in the last two years to stop the use of deceptive nutrition claims on labels and in ads.) Some of the most notable of the claims surround the use of terms such as *fat-free*, *low-fat*, *lite/light*, *low-calorie*, and *cholesterol-free*. A manufacturer of potato chips, for example, has advertised its chips as cholesterol-free, which was technically true. However, the chips were high in fat and even in saturated fat (which the body processes into cholesterol). The claim was true, but we can surmise that the intent was to depend on a confusion in the consumer's mind about fats, cholesterol, and body chemistry.

The ad clearly hoped some consumers would interpret the message that the chips would not raise cholesterol. What else could the intent have been?

The plastics industry has been particularly notorious in this subtle example where we might reasonably conclude an intent to deceive. The industry has, of course, received criticism from environmentalists who argue that in our "throw-away" society uses too much nonrenewable fossil fuel in its consumption of nonrecyclable plastic. Industry commercials defend plastic by pointing to its uses for artificial limbs, automobile air bags, and other products. Critics claim that the ads, like a shell game, intend to deceive by obfuscating the issue and attempting to imply a generalized false conclusion that plastic is in all their uses, essential.

Ads might intend to deceive even when they provide full and accurate information. Automobile advertisements do disclose the terms of the lease, but the highly attractive monthly payment figure dominates the ads. But those qualifying terms, when presented in television commercials, are displayed so quickly that the speediest readers will be unable to process the information. Some say that the design of the ads is intentional deception that depends on consumers being unable to assimilate the government-required information.

Assessing intended deception is perhaps the most difficult for ads that omit information. One might argue that an ad is deceptive if an advertiser intentionally communicates information that might lead the consumer to a different conclusion. The difficulty with this principle, however, is that it requires too much disclosure. Certainly, the government seems to require advertisers to disclose all the features of their products. It also seems to require disclosure of deficiencies of a product relative to competitors. Not hiding major flaws is one thing; it is quite another to suggest that ads disclose everything that might be relevant to consumer judgment. Exactly where we draw the line concerning what can knowingly be omitted from an ad intending to mislead is a difficult question.

The difficulty of drawing that line is made more obscure the obvious cases that intend to deceive. Political campaign ads are particularly notorious. A corrupt example of misleading by omission is when opponents will charge that "Senator Smith voted against funding for [choose a popular hot button issue]." It is usually true that "Smith" did vote against that funding, what the ads fail to disclose is that Smith supported a complex appropriation bill that dealt with a host of other appropriations as well. Political ads