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NAD Recommends Serta Modify, Discontinue Certain Comparative Advertising Claims for 'IComfort,' Following Tempur-Pedic Challenge

New York, NY – Jan. 7, 2013 – The National Advertising Division has recommended that Serta, Inc., modify or discontinue certain comparative performance claims made for the company's iComfort Sleep System, including claims that Serta's product offers superior cooling benefits over competitor Tempur-Pedic Management, Inc.

NAD is an investigative unit of the advertising industry's system of self-regulation. It is administered by the Council of Better Business Bureaus.

Comparative performance claims made by Serta in Internet advertising and product brochures were challenged by Tempur-Pedic, including cooling claims ("Our cool action material sleeps cooler than ordinary memory foam"), air-flow claims ("Up to 12x more breathable") and claims that compare the support, pressure relief and therapeutic benefits of the competing products.

NAD noted in its decision that while the case offered "much in the way of complex technological advances in memory foam mattresses and how various aspects of a mattresses' components may or may not impact the sleeping experience of consumers, the ultimate question is one that NAD handles every day: whether the advertiser's claims convey a truthful, accurate and non-misleading message about the performance capabilities of the products it sells and its superior performance claims in comparison to the challenger's competing products."

NAD was mindful of Serta's position that its testing substantiates comparative superiority claims that its products' materials perform better than Tempur materials with respect to cooling, heat conductivity, air flow, etc., and its contention that its advertising claims speak directly in terms of the materials or components used in constructing the parties' respective mattresses.

However, NAD concluded that the challenged claims could reasonably be interpreted by consumers as a direct comparison of the parties' respective memory foam mattresses – not simply the products' individual components or materials.

Although portions of the challenged advertisements speak in terms of Serta's "materials" (i.e., gel beads, open cell structure, microsupport gel, gel memory foam, etc.), NAD determined that, "in the end, Serta is promoting complete, intact, iComfort Sleep System memory foam mattresses, not individual layers or components. Moreover, these claims are

framed in the comparative context, asserting the superior quality and performance of its products as compared to its competitors.

Overall, NAD found studies submitted by Serta in support of its claims to be problematic, relying in part on tests of mattress samples, rather than complete mattresses, and failing to take into account the effect of bedding and nightclothes.

NAD recommended that the advertiser discontinue its inadequately supported comparative superiority "cooling" claims, as well as claims that independent testing proved that "iComfort is superior to Tempur-Pedic on all 3 factors essential to helping your customers sleep cooler" and related "testing" claims. NAD found that the evidence was insufficient to support Serta's claim that its iComfort Sleep System offers "dramatically increase[d] airflow" and recommended that this claim be modified.

NAD recommended that the advertiser discontinue its comparative superiority claims regarding support and pressure relief, as well as its establishment claims that independent testing proves that iComfort provides "2x Support" and "uniquely designed to deliver lower average body pressure than other advanced comfort materials."

Notwithstanding these findings, however, NAD noted that nothing in its decision precludes Serta from making more limited, stand-alone claims regarding product's design.

Finally, NAD concluded that the Serta's therapeutic claims, if modified to remove comparative references, were puffery.

Serta took issue with certain of NAD's findings, but said in its advertiser's statement that it would take NAD's recommendations into account in future advertising.

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NAD's inquiry was conducted under NAD/CARU/NARB Procedures for the Voluntary Self-Regulation of National Advertising. Details of the initial inquiry, NAD's decision, and the advertiser's response will be included in the next NAD/CARU Case Report.

About Advertising Industry Self-Regulation: The Advertising Self-Regulatory Council establishes the policies and procedures for advertising industry self-regulation, including the National Advertising Division (NAD), Children's Advertising Review Unit (CARU), National Advertising Review Board (NARB), Electronic Retailing Self-Regulation Program (ERSP) and Online Interest-Based Advertising Accountability Program (Accountability Program.) The self-regulatory system is administered by the Council of Better Business Bureaus.

Self-regulation is good for consumers. The self-regulatory system monitors the marketplace, holds advertisers responsible for their claims and practices and tracks emerging issues and trends. Self-regulation is good for advertisers. Rigorous review serves to encourage consumer trust; the self-regulatory system offers an expert, cost-efficient, meaningful alternative to litigation and provides a framework for the development of a self-regulatory to emerging issues.

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