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FTC vs. Skechers: Overhyped meets overkill

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The Federal Trade Commission announced Wednesday that Skechers USA Inc. will pay $40 million to settle charges that the company made "unfounded claims" about its Shape-up shoes.

"Shape Up While You Walk," one ad proclaimed. And: "Get in Shape without Setting Foot in a Gym." Kim Kardashian endorsed the rocker-bottom sneaks. She said they worked so well she got rid of her personal trainer. The FTC found Skechers' weight-loss and tone-up claims to be "over hyped."

Overhyped? It's a good thing Washington politicians never overpromise; otherwise one might think the FTC should go after politicians who mislead voters before it targets private-sector employers that overhype their products.

In the rush for headlines, politicians know no shame. Attorneys general from more than 40 states got in the act. California AG Kamala Harris put out a press release to toot her role in the settlement. "Consumers shouldn't be duped into paying more for products with false promises of weight loss and other benefits," quoth Harris. "The FTC's message for Skechers and other national advertisers is to shape up your substantiation or tone down your claims," the FTC's David Vladeck said in a statement.

You can sleep soundly tonight, America. In the land of the press release, there is no such thing as an insignificant problem.

Confession time: I bought a pair of Skechers. (I bought the shoes because a similar brand helped my husband alleviate knee problems.) I didn't expect to lose weight. I certainly didn't expect to look like Kim Kardashian. I also did not expect to moon dance as deftly as Mr. Quiggly, the French bulldog who replaced Kardashian as Skechers' shill.

"It's one thing if you sell someone a washing machine and it breaks," Cato Institute senior fellow Walter Olson observed, or if a product promises a medical advancement that it cannot deliver. But the Skechers ads, to Olson, are like beer ads that show "pretty women swimming around the beer drinker, which seldom happens in real life."

FTC attorney Larissa Bungo disagrees. She explained, "We're dealing with a national advertiser that made explicit performance claims," which it couldn't back up. The FTC made much of the fact that endorser Steven Gautreau, a chiropractor, is married to a Skechers marketing executive.

I could see the FTC engaging in a legal settlement to stop Skechers from false advertising - if that happened. A disclaimer at the end of the FTC statement notes that the settlement does not constitute an admission of guilt on Skechers' part.

But I do not see it as prudent use of government funds and resources to set up a bureaucracy that gives money to consumers to compensate them for not getting a benefit that no reasonable consumer would expect.

And it's not as if consumers can't return sneakers.

"The government is looking for easy targets," Cato's Olson opined, "which is not the same as being the worst players in the marketplace. If you have a successful product, in some ways you can be an easier target."

In a statement released Wednesday, Skechers Chief Financial Officer David Weinberg denied the allegations of "unfounded claims," but did say the "exorbitant cost and endless distraction" of multiple class-action lawsuits presented an "unreasonable burden" on the company, regardless of outcome.

That's why the government always wins. It's like paying protection money. In the end, it's easier to pay up and move on.

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