



United States of America  
FEDERAL TRADE COMMISSION  
Washington, D.C. 20580

Division of Advertising Practices

September 7, 2017

Laura Brett, Esq., Director  
National Advertising Division  
112 Madison Avenue, 3<sup>rd</sup> Floor  
New York, NY 10016

Re: Advertising Claims for Total Wine & More – Pricing Advertising

Dear Ms. Brett:

I am writing to follow up on the NAD's referral to the FTC of its compliance investigation of Total Wine & More's ("Total Wine") comparison pricing claims. Your referral indicated that Total Wine affirmatively declined to file a substantive response to NAD's initial and follow-up requests for substantiation for its pricing claims. Accordingly, you referred this matter to the FTC for our review.

We have met with and had multiple communications with Total Wine's representatives to discuss the challenged advertising practices. We understand that Total Wine now has implemented practices to help ensure that price comparison claims between it and its competitors are truthful and not misleading to consumers. For example, with regard to in-store signage comparing its products to those of a competitor, Total Wine has represented that it conducts weekly price comparison shops to provide up-to-date pricing information to consumers. Now, to increase transparency, if a competitor's item price has not changed, Total Wine employees have started to update in-store signage to reflect the date of the new price shop instead of keeping the original price shop date. Total Wine represents that if a competitor's item price has changed, Total Wine employees update the price in in-store ads or discontinue using that item for price comparison purposes. In addition, in newspaper circular advertisements (which also post on Total Wine's website), Total Wine has agreed to add language very near to its price comparison "call-outs" that its competitor's prices may vary by location.

Upon review of the matter, we have determined not to take additional FTC action at this time. Our decision is not to be construed as a determination that a violation has not occurred. The Commission reserves the right to take such further action as the public interest may require. The FTC fully supports the NAD's self-regulatory process, and we appreciate your referral and the opportunity to continue to assist in supporting the NAD.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Devin Willis Domond".

Devin Willis Domond  
Chief of Staff for Advertising Practices

cc: Robert Shaffer, Total Wine & More