

CASE 04

POM Wonderful: Crazy Healthy!

CASE NOTES FOR INSTRUCTORS

This case introduces students to the company POM Wonderful. Most likely these students are already familiar with the company's renowned hour-glass shaped bottles of pomegranate juice. POM Wonderful has a good reputation because of the pomegranate products it sells. Pomegranates are high in antioxidants and are thought to be helpful in combating some diseases. This case is unique because despite POM Wonderful's reputation as a company that sells healthy products, the Federal Trade Commission ruled that its advertising was deceptive. This demonstrates that even companies that sell products beneficial to society must still be careful about how they advertise their products.

POM Wonderful has secured a large portion of the pomegranate beverage market. Like most firms, it takes great strides to protect its market share. For instance, POM Wonderful filed a lawsuit against Coca-Cola after it introduced its Minute Maid pomegranate-blueberry juice blend because the beverage consisted mostly of apple and grape juices, not pomegranates. However, POM Wonderful would face its own legal scrutiny in 2010 when the Food and Drug Administration sent POM Wonderful a letter claiming that its products were being marketed similarly to pharmaceuticals in terms of their touted health benefits. For instance, company ads claim that pomegranates can help prevent certain diseases or maladies, such as erectile dysfunction and prostate cancer, as well as have a positive impact on LDL cholesterol. As such, POM Wonderful was required to prove with scientific rigor that its juice products were beneficial in the curing, mitigation, treatment, and/or prevention of diseases. Because POM Wonderful's claims were not substantiated, its ads were deceptive.

The Federal Trade Commission (FTC) found POM Wonderful guilty of violating the Federal Trade Commission Act. It ruled that POM Wonderful had made unsubstantiated efficacy and establishment claims. It forbade POM Wonderful from making any more health claims unless they were substantiated by two randomized and controlled human clinical trials.

POM Wonderful appealed the ruling, but the U.S. Court of Appeals upheld most of the FTC's ruling. It did say, however, that two human trials were excessive and that one clinical trial would be enough to provide valuable health information.

What is so interesting is that unlike new and untested pharmaceuticals, pomegranates almost certainly have health benefits of some sort. They do not have nearly the same risks as untested pharmaceuticals. Therefore, it could be argued that POM Wonderful's beverages are being held to unrealistic standards. The U.S. Court of Appeals seemed to agree as it ruled that POM Wonderful only had to perform one clinical trial. This case could be used as a debate exercise for whether food should be held to the same standards as pharmaceuticals regarding the promotion of health benefits.

QUESTIONS AND DISCUSSION

1. *Is there any difference in potential deception between Coca-Cola's advertisers and POM Wonderful's advertising?*

The biggest difference is that the Coca-Cola example involves the actual content of its product, while the POM Wonderful example deals with the health claims of its products. It is sometimes hard to determine whether an advertisement is misleading or if it is just a form of puffery. However, most students will likely agree that a product's marketing should not misrepresent its content. According to POM Wonderful's complaint Coca-Cola's Minute Maid pomegranate-blueberry juice barely contains any pomegranate juice, so it is not a far stretch to claim that its name and marketing are misleading. On the other hand, POM Wonderful were making claims that did not have enough substantiation, but were not necessarily false.

However, students may argue justifiably that both companies made claims that they knew might not be accurate. Therefore, both of them should be held accountable. Other students might argue that pomegranates are a healthy product and most likely do have some health benefits, so trying to hold POM Wonderful to the same standards as pharmaceuticals is unrealistic and too burdensome. They might not consider POM Wonderful's unsubstantiated claims of health benefits to be as misleading as Coca-Cola's implication that its beverage contained a significant amount of pomegranate juice.

2. *Why does the FTC want food and supplement makers' claims about the health impact of their products to be substantiated with clinical trials?*

The FTC wants to crack down on food and dietary supplement manufacturers that make misleading claims upon which consumers depend. The FTC desires to adopt the more stringent standards of the FDA in approving new drug products to hold food and dietary supplement makers more accountable for the protection of consumers.

3. *Do you feel that POM Wonderful—a product with known health attributes—should be subjected to the same scrutiny as drug companies if it wants to make health claims about its product?*

Students' answers will vary. Some will likely point out that unlike untested pharmaceuticals, pomegranate juice is not likely to cause harm and most likely does have certain health benefits. Therefore, these products should not be held to the same standards as pharmaceuticals. It is important to note that people depend upon pharmaceuticals for health reasons; if the pharmaceutical is ineffective or potentially dangerous, it could have serious implications for health. Pomegranate juice is not likely to have the same impact. On the other hand, students might point out that all businesses have the responsibility to ensure their marketing claims are accurate. Therefore, companies like POM Wonderful should complete the trials to make certain its health claims are valid. Doing otherwise could mislead the customer.

ADDITIONAL RESOURCES

- POM Wonderful's misleading marketing:
<https://www.forbes.com/sites/davidvinjamuri/2012/05/23/judge-finds-pom-wonderful-advertising-deceptive-but-thats-just-the-tip-of-the-iceberg/#62671ce01619>

- POM Wonderful ruling: <http://www.latimes.com/business/la-fi-pom-wonderful-20160503-snap-story.html>
- POM Wonderful health benefits: <https://www.pomwonderful.com/pomegranate-wellness/wonderfully-nutritious/>