

Part I:

Consumer Ad: This [Weight Watchers 360](#) ad endorses the program in a positive manner by a real member of Weight Watchers. The member holds a photo of herself before starting the Weight Watchers 360 program, and shows readers of the ad what she looks like after starting the program.

“I love that Weight Watchers didn’t expect me to be perfect. And I still lost weight.” –Jamie, Meetings Member.

I believe this ad is beneficial to people who want to start the Weight Watchers 360 program, because it boasts a member who is not a celebrity. Readers may have an easier time relating to the advertisement, as it shows common, rather than famous, people. We can believe that Jamie is an actual consumer of Weight Watchers because there are no disclaimers such as “Image is being used for illustrative purposes only,” which I had come across repeatedly in my research. The ad shows how readers can get started with Weight Watchers, and the positives to becoming a member of the well-known weight loss program.

“Consumer testimonials in an advertisement are meant to convey that the endorser’s experience is representative of a typical experience with the product.”

Expert Ad: Speaking as a former indoor tanner and patient who had a number of moles removed to prevent cancer, I think this [International Smart Tan Network](#) advertisement is absolutely ludicrous. Nonetheless, it is an expert ad. (I even did a name check to make sure.)

“This professional knows what your customers want to be assured of: Tanning is natural and it’s what your body was designed to do. Hang this poster in each of your tanning rooms to let everybody know that tanning is okay.”

Dr. Sandra Russell, OB/GYN, is promoting the use of tanning to prevent cancer. According to fairwarning.org, this

“An expert endorsement must be supported by an examination or testing of the product at least as extensive as experts in the field generally agree would be needed to support the conclusions presented in the endorsement.”

According to fairwarning.org, this ad is a part of the controversy surrounding indoor tanning: with ads featuring “misleading messages” promoting indoor tanning. The website is warning readers who come across these ads to not be fooled. Though they may be legitimate doctors, such as Dr. Russell, promoting Vitamin D for breast cancer prevention, they ***“indirectly promote the idea that tanning is healthful.”***

While it may not be entirely ethical, Dr. Russell is an OB/GYN responsible in detecting breast cancer. Dr. Russell herself is promoting tanning, however harmful it may be.

“If a person claims to be an expert and vouches for the product, then that person must possess the required expertise to endorse the product.”

Celebrity Endorsement Ads: Katy Perry in the “Proactiv” acne treatment advertisement. [I’m Not Polite. I’m Proactiv](#) In order for a celebrity to use the

product; they have to be legitimate consumers. We can guess that Katy Perry in fact uses Proactiv and that it works for her, or she would not be promoting the product. **“Katy doesn’t play nice with acne. She uses new Proactiv- now with micro-crystal medicine and 24/7 Skin Care Advisor support.”**

Sofia Vergara Diet Pepsi ad: [Youtube](#) [Youtube Photo](#)

Sofia Vergara of Modern Family is famous for her Diet Pepsi advertisements. I understand this could be considered a celebrity endorsement ad as well, however, with her multiple TV commercials and advertisements in magazines, we can assume that she is an avid Diet Pepsi drinker.

“As the law requires, if the celebrity endorser says she uses the product, then she must use the product.”

Part II:

According to this week’s notes: **Puffery is nonfactual, exalted claims about a product.**“

A product that claims to be the best in something or to the ultimate standard with no legitimate backing is considered to be a form of puffery.

In my research, I found an advertisement from Seattle’s Best Coffee advertising that it is **“[Serving the Best.](#)”** While I always enjoy a hot cup of Seattle’s Best (especially their flavored coffees,) it is only an opinion to say that they are serving the “best” coffee in the nation, or the world, for that matter. Puffery is defined as what it sounds like- playing a product up to be much more than it is. **As defined by Merriam-Webster, Puffery is “exaggerated commendation especially for promotional purposes.”** Similarly stated in our notes for this week, puffery is the **“nonfactual, exalted claims about a product.”** A hypothetical example of puffery would be an ad that states: **“You have never tried a better tasting chocolate than Hershey’s.”** An advertisement saying that would be making a general claim that the reader has never had a better tasting chocolate than Hershey’s, when, for example, they may prefer Nestle’s chocolates over Hershey’s.

Another advertisement I found boasts Coors Light beer owns the **“[World's Most Refreshing Can.](#)”** (I’m not exactly sure how a can could be considered refreshing,) however if they are talking about their beer, it is a form of puffery to say their beer is one of the world’s most refreshing. There could be people who do not agree and who do not like the taste of Coors Light beer or think it is refreshing. This is simply the company’s opinion and does not represent the entire demographic of beer drinkers.

Part III:

Need to Know:

Central Hudson Test:

1. Is the advertisement (or other commercial speech) for a lawful product or service that is not false or misleading?
2. Does the government assert a substantial interest in regulating the speech?
3. Does the regulation directly advance the government's interest?
4. Is the regulation narrowly drawn?

The Pitt News v. Pappert: As stated in our notes, alcohol is a legal product, and to curb the issue of underage drinking and alcohol abuse is important to the government to satisfy the first and second prongs.

"The law applies to ads that concern lawful activity (the lawful sale of alcoholic beverages) that are not misleading, and we see no other ground on which it could be argued that the covered ads are outside the protection of the First Amendment."

However, the third and fourth prongs of the Central Hudson Test could not be entirely proven. The third prong was not met because the government believed that while it would support their efforts to curb underage and abusive drinking, it would be ruled ineffective. If the proposal had the ability of wholly reducing the number of ads viewed by underage and abusive drinkers, then the third prong would have passed. The case ***"applies only to advertising in a very narrow sector of the media, and the Commonwealth has not pointed to any evidence that eliminating ads in this narrow sector will do any good."*** Neglecting to publish alcohol product advertisements did not reduce the amount of underage drinkers to certain degree; nor could it substantially make underage drinkers **"forget"** about alcohol.

"The Commonwealth relies on nothing more than 'speculation' and conjecture."

Just because the information wasn't being posted does not mean that students will entirely stop drinking. As stated in the notes, the test "requires that the government demonstrate that the law directly advances the asserted interest."

"The Commonwealth has not demonstrated that Section 4-498 has curbed or promises to curb such drinking to any appreciable degree."

As mentioned, Pennsylvania could not prove the law would significantly curb underage drinking. For the fourth prong, as the notes mentioned, the law failed to be "narrowly tailored" due to over 67% of Pitt's students being of legal drinking age, and more than 75% of the University as a whole (students, faculty and staff) being over 21. The 33% of underage students would not be a significant indicator of progress, as it is less than 50%.

"Common sense suggests that would-be drinkers will have no difficulty finding those establishments despite Section 4-498, and the Commonwealth has not pointed to any contrary evidence."

The case suggested that enforcements to combat underage drinking on college campuses are "half-hearted" and fail to have a significant effect. The case further states that local or state law enforcement officials and administrators do not actively engage in discouraging underage drinking on campus.

"The most direct way to combat underage and abusive drinking by college students is the enforcement of the alcoholic beverage control laws on college campuses."

Speaking as a college student, I agree that while officials make acceptable attempts, they do not follow through with enforcement. However, I am eager to see how Penn State student officials, school administrators and State College together will work together to try and expel State Patty's Day this year.

Educational Media Co. v. Swecker: This case covers a similar situation as the Pitt News v. Pappert case; the Educational Media Company covers both Virginia Tech's *The Collegiate Times*, and the University of Virginia's *The Cavalier Daily*. These university newspapers rely on advertising revenue. In the first prong of the Central Hudson test, these publications understand that alcohol advertisements should be age-restricted for 21-and-over readers, as it is illegal to purchase or sell alcohol to anyone under the age of 21. The answers of the third and fourth prong in this case are similar to that of the Pitt News v. Pappert case. The government has a substantial interest in curbing underage and abusive drinking on college campuses, therefore to pass this request banning alcohol advertisements would be legitimate. Further, the publications in this case agree that the importance of banning underage drinking and sales is important. **However, similar to the University of Pittsburgh's case, the (Virginia) Alcohol Control Board argues that college newspapers attract more attention among college students than other forms of mass media. The Board believes that alcohol ads increase demand for the product.** I think seeing an advertisement of a specific alcohol brand reminds students this brand is "popular," therefore increasing their craving of the product. **Similar to Pitt's case, Virginia's college newspapers refute the theory, saying that there is no proof that banning alcohol advertisements in college newspapers decrease the demand among college students** (college students will be surrounded by alcohol, parties and reminders of the drink, anyways,) **and banning alcohol advertisements in college newspapers is ineffective because college students will see alcohol ads in other forms of media.** For the fourth prong, the Board assessed that the proposal banning these advertisements was sufficiently narrow, because the request is only proposed toward **student-published** newspapers on campus, not necessarily all publications sold on the campus. For example, Penn State students publish *The Collegian* and it is distributed in buildings all around campus; however, students can also swipe their ID Card or pay to pick up a copy of the *Centre Daily Times* or *USA Today*. Also, the proposed idea only prohibits certain types of alcohol advertisements, not necessarily those advertisements from restaurants announcing the various kinds of alcohol they serve.

United States District Judge Norman K. Moon disagreed with the board's analysis of the Central Hudson Test. Moon cited the Pitt News v. Pappert case as a similarity, and analyzed that readership of these college newspapers is not primarily under the age of 21. Moon went on to say that the Pennsylvania case failed to find that banning alcohol ads in student newspapers would reduce the quantity of "alcoholic beverage ads viewed by underage and abusive drinkers on the Pitt campus." While the fourth prong had been successfully met in the Pitt case, there was no evidence that eliminating these

alcohol ads would serve a positive purpose. In recognition of the third prong, Moon believes the link between the demands for alcohol by college students and reading alcohol ads in school newspapers is “speculative, at best.” Moon also thinks that alcohol vendors wanting to advertise in college student newspapers is preposterous- he questions the Alcohol Control Board’s intentions, as well. Do they want to curb underage and abusive drinking among university students, or reduce the general demand for alcohol among college drinkers, even if they are over the age of 21? He believes that banning alcohol ads in student newspapers unfairly discourages adult drinking in college- the students who are over 21 who have the legal rights. He also thinks that banning these ads imposes upon the rights of students under 21, as they will soon be 21 and have a legal right to consume alcohol in a university setting. I find the last point that Moon makes very interesting- although I am not saying I necessarily agree with his opinion in general. Moon believes it is inconsistent to prohibit brands and prices of alcohol and specialty drinks, while still advertising for events such as “beer night” or “mixed drink night” in restaurants and bars. Speaking as a college student and because I have heard people discussing these subjects, if students read these advertisements and are not yet 21, it could increase the need to find fake IDs or having friends, who, let’s say, work at the bar or restaurant, sneak them in. Anything is possible- I have heard of these scenarios happening and have seen them, so this point made is interesting to me. If a student reads about these events and is interested in attending them to no avail, they may find outlandish ways to do so, and in turn, would obviously be illegal.

The similarities that both of these cases represent is no more than the lack of information found that not publishing alcohol ads in school publications has a substantial effect on curbing underage and abusive drinkers to finding this information. Certainly, the first and second prongs of the Central Hudson Test were successfully met, because curbing underage and abusive drinking is significantly important in what I assume to be almost every college campus in America. However, will this problem actually **be solved** is the issue at hand.

“Even if Pitt students do not see alcoholic beverages ads in The Pitt News, they will still be exposed to a torrent of beer ads on television and the radio, and they will still see alcoholic beverage ads in other publications, including the other free weekly Pittsburgh papers that are displayed on campus together with The Pitt News.”

I summarize it to this point: Underage college students who want their alcohol **will find** their alcohol. I am not saying that I agree for student newspapers or publications to publish alcohol ads. In fact, I don’t think those advertisements should have a place in student newspapers or publication. However, in eliminating these ads, I feel the publications would have to omit information for bars and restaurants, as Judge Moon said, because these advertisements will be readily available in the publications whether or not the actual alcohol ads are. It is a slightly different situation when it is a bar or restaurant advertisement, because these advertisements showcase local events in the community, whether or not alcohol is

involved. However, like I said, underage students will get their alcohol. Whether they see these advertisements in student publications or People magazine or Cosmopolitan or a TV commercial, they will find a way to get their hands on that can of cheap beer a fancy mojito from a local bar.