Nos. 25-238, 25-566

In the Supreme Court of the United States

CUTBERTO VIRAMONTES, *et al.*,
Petitioners,

v.

COOK COUNTY, ILLINOIS, *et al.*,
Respondents.

EDDIE GRANT, JR., *et al.*,
Petitioners,

v.

RONNELL HIGGINS, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE CONNECTICUT DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, *et al.*,
Respondents.

On Writs of Certiorari to the United States Court of Appeals for the Seventh and Second Circuits

BRIEF OF MARKETING EXPERTS AIMEE DINNIN HUFF AND HAROLD FALBER AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

John Graubert
Counsel of Record
Taylor Kay
Munseong Park
Yevgeniy Pilipovskiy
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, D.C. 20001
(202) 662-6000
jgraubert@cov.com

Counsel for Amici Curiae

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

SAMPLE ASSAULT WEAPON ADVERTISEMENTS xii

INTEREST OF *AMICI CURIAE* 1

INTRODUCTION AND SUMMARY OF ARGUMENT 3

ARGUMENT 6

I. Advertising Standards 6

II. Unlawful Aspects of Assault Weapon Advertising 9

A. Assault Weapons Are Advertised for Illegal, Offensive and Violent Actions 9

B. Improper Marketing of Assault Weapons to Minors and Young Adults 27

1. Firearm Advertisements Involving Children Are Unfair 27

2. Firearm Manufacturers Have Marketed Actual Firearms as Toys for Children 35

C. Deceptive Personal Defense and Safety Claims 36

CONCLUSION 41

TABLE OF AUTHORITIES

Page(s)

Cases

AMF,
95 F.T.C. 310 (1980) 28

Bianchi v. Brown,
111 F.4th 438 (4th Cir. 2024) 15

Central Hudson Gas & Electric Corp., v. Public Service Commission of New York,
447 U.S. 557 (1980) 25

District of Columbia v. Heller,
554 U.S. 570 (2008) 25

FTC v. Accusearch, Inc.,
2007 WL 4356786 (D. Wyo. Sep. 28, 2007), ... 7

FTC v. Accusearch, Inc.,
570 F.3d 1187 (10th Cir. 2009) 7

FTC v. BlueHippo Funding, LLC,
762 F.3d 238 (2d Cir. 2014) 4

FTC v. Figgie Int'l,
994 F.2d 595 (9th Cir. 1993) 4

FTC v. LeadClick Media, LLC,
838 F.3d 158 (2d Cir. 2016) 25

FTC v. Neovi, Inc.,
604 F.3d 1150 (9th Cir. 2010) 25

FTC v. World Travel Vacation Brokers, Inc.,
861 F.2d 1020 (7th Cir. 1988) 8

Gen. Mills Fun Group, Inc.,
93 F.T.C. 749 (1979) 27

Glus v. Brooklyn E. Dist. Terminal,
359 U.S. 231 (1959) 5

Hasbro,
116 F.T.C. 657 (1993) 27

In re Int'l Harvester,
104 F.T.C. 949 (1984) 7

Lewis Galoob Toys,
114 F.T.C. 187 (1991) 27

Mego Int'l,
92 F.T.C. 186 (1978) 28

Polaroid Corp. v. Eastman Kodak Co.,
641 F. Supp. 828 (D. Mass. 1985) 6

Polaroid Corp. v. Eastman Kodak Co.,
No. 76-1634-Z, 1985 U.S. Dist. LEXIS
15003 (D. Mass. Oct. 11, 1985) 6

Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.,
324 U.S. 806 (1945) 5

Presser v. Illinois,
116 U.S. 252 (1886) 25

R.J. Reynolds Tobacco Co.,
127 F.T.C. 49 (1999) 28

Soto v. Bushmaster Firearms International, LLC,
202 A.3d 262 (Conn. 2019) 9

Uncle Ben's,
89 F.T.C. 131 (1977) 27

Statutes

15 U.S.C. § 45 6

15 U.S.C. § 57b 6

Print Media

B&T Advertisement, *Recoil* Magazine, Mar./Apr. 2022 38

Daniel Defense Advertisement, *Guns* Magazine, May 2012 37

Daniel Defense Advertisement, *Guns & Ammo* Magazine, Sep. 2013 16

Defend Your Legacy Advertisement, *American Rifleman* Magazine, Feb. 2017 39

Pipe Hitters Union Advertisement, *Recoil* Magazine, Mar. 2018 11

Pipe Hitters Union Advertisement, *Recoil* Magazine, Mar./Apr. 2017 11

Patriot Ordinance Factory USA Advertisement, *Recoil* Magazine, July/Aug. 2014 17

Digital Media

Autumn's Armory, Brownells BRN-180!, (YouTube, Apr. 6, 2022) 29

Centuryarms, Century Arms AP5, (YouTube, Feb. 24, 2022) 20

Daniel Defense (@DanielDefense), Twitter, Train up a child in the way he should go, and when he is old, he will not depart from it. (May 16, 2022, at 9:26 ET) 31

Kahr Firearms Group, Danyela D'Angelo - Gaming the Competition, (YouTube, Nov. 14, 2022) 23

Photo posted by blackrainordnance (@blackrainordnance), Instagram (Feb. 17, 2023) 33

Photo posted by danieldefense (@danieldefense), Instagram (Feb. 14, 2025) 13

Photo posted by danieldefense (@danieldefense), Instagram (Jan. 23, 2020) 34

Photo posted by danieldefense (@danieldefense), Instagram (Mar. 2, 2022) 18

Photo posted by sonsoflibertygw (@sonsoflibertygw), Instagram (May 23, 2022) 13

Photo posted by spikes_tactical (@spikes_tactical), Instagram (Oct. 13, 2020) 32

Video posted by keltec.official (@keltec.official), Instagram (June 21, 2023) 12

Video posted by magpul (@magpul), Instagram (Apr. 13, 2023) 33

Other Authorities

2 Am. Bar Assoc., *Consumer Protection Law Developments* (2d ed. 2016) 7

Aimee Dinnín Huff, Michelle Barnhart & Brett C. Burkhardt, *Implied Uses of Modern Sporting Rifles in Manufacturers' Print Advertising*, 45(4) J. Pub. Pol'y & Mktg. 331 (2026) 1, 3, 8, 15, 25, 26

Aimee Dinnín Huff, Michelle Barnhart & Noah Schwartz, *The Visual Discourse of Necropolitics in Assault-Style Rifle Print Advertising to U.S. Consumers*, Extended Abstract, Proceedings of the 2026 AMA Marketing and Public Policy Conference vol. 35 (May 16, 2026) 3, 4, 8, 14, 15, 19, 25, 26

Alex Horton, Monique Woo & Tucker Harris, *Flannel, muddy girl camo and man cards. See the ads used to sell the AR-15.*, Wash. Post (updated Apr. 11, 2023) 19, 20, 21

AMA, *AMA Statement of Ethics* 8

AMA, Essential Community for Marketers: 2025 Annual Report (2025) 8

Andrew C. McKevitt, *Gun Country: Gun Capitalism, Culture, and Control in Cold War America* (2023) 10, 23

Beck's Beer, FTC Consent Order, C-3859 (1999) (statement of Commissioner Thompson) 28

CBS News, *Sandy Hook Shooting: The Unprecedented $73M Settlement with Gunmaker Remington* (May 29, 2022) 24

Complaint from Everytown Law to Andrew Smith, Director, Bureau of Consumer Protection, FTC (May 31, 2020) 30

Complaint from Everytown Law to Samuel Levine, Acting Director, Bureau of Consumer Protection, FTC (Aug. 17, 2021) 19

Complaint from Everytown Law to Samuel Levine, Acting Director, Bureau of Consumer Protection, FTC (July 15, 2022) 10, 15, 16, 19, 21, 23, 24, 27, 33, 34

Cornelia Pechmann et al., *Impulsive and Self-Conscious: Adolescents' Vulnerability to Advertising and Promotion*, 24 J. Pub. Pol'y & Mktg. 202 (2005) 27

Declaration of Ryan Busse, Ex. 6 to Response in Opposition to Motion for Preliminary Injunction, *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill. March 2, 2023) 3, 19, 22

Denise Gellene, *Ruling Forces Kodak to Quit Instant Camera Field; Recall Launched*, LA Times (Jan. 9, 1986) 6

Elliott Woods, *Fear: How the NRA sells guns in America today*, The New Republic (Apr. 16, 2018) 10

Emma Gray, *Bushmaster Rifle Ad Reminds Us to Ask More About Masculinity and Gun Violence (PHOTO)*, Huffpost (Dec. 17, 2012) 22

Examining the Practices and Profits of Gun Manufacturers: Hearing Before the H. Comm. on Oversight and Reform, 117th Cong. (July 27, 2022) (testimony of Ryan Busse, Senior Advisor, Giffords Law Center) 21

FACT Petition to FTC, *The Gun Industry's Advertising: Effective, Deadly, and Actionable* (Apr. 7, 2022) 10, 21, 35, 36

Frederick M. Lawrence, *Punishing Hate: Bias Crimes Under American Law* (1999) 14

FTC Policy Statement on Deception, appended to Cliffdale Assocs., 103 F.T.C. 100 (1984) 8

FTC, *FDA Take Action Against Companies Marketing E-liquids That Resemble Children's Juice Boxes, Candies, and Cookies* (May 1, 2018) 28

Georgetown Law, *Prohibiting Private Armies at Public Rallies: A Catalog of Relevant State Constitutional and Statutory Provisions*, Inst. Const. Advoc. & Prot. (4th ed. 2024)..... 25

Greg Lickenbrock, *Sig Sauer Ad Urges AR-15 Owners to Take Up Arms*, The Smoking Gun (Feb. 14, 2024) 15

Ian Karbal, *'Boogaloo' Believers Think a Civil War Is Coming. These Gun Firms Are Openly Marketing to Them,* The Trace (June 29, 2020) 10

Jenny Radesky et al., Policy Statement, *Digital Advertising to Children*, 146 Pediatrics 1 (2020) 27

JR 15 .22 Long Rifle Specifications 36

Marnik G. Dekimpe & Dominique M. Hanssens, *The Persistence of Marketing Effects on Sales*, 14 Mktg. Sci. 1 (1995)..... 3

Memorandum from Chairwoman Carolyn B. Maloney to Members of the Committee on Oversight and Reform (July 27, 2022) 9, 14, 21, 22, 23

Michael Zennie, Katie Reilly & Jamie Ducharme, *10 Confirmed Dead, 10 Wounded: The Latest on the Santa Fe, Texas School Shooting*, Time (updated Dec. 12, 2023) 5

NPR Fresh Air Broadcast, *How the AR-15 Became the Bestselling Rifle in the U.S.*, NPR (Apr. 20, 2023) 15

Order on Mot. to Dismiss, *Roberts et al. v. Smith & Wesson Brands, Inc. et al.*, Case No. 22 LA 00000487 (Cir. Ct. 19th Judic. Cir, Lake County Ill.) (Apr. 1, 2025) 9

Raj Sethuraman, Gerard J. Tellis & Richard A. Briesch, *How Well Does Advertising Work? Generalizations from Meta-Analysis of Brand Advertising Elasticities*, 48 J. Mktg. Rsch. 457 (2011) 3

Ryan Busse, *Gunfight: My Battle Against the Industry that Radicalized America* (2021) 3, 5, 10, 14, 15, 19, 21, 23, 24, 26

Statement of Commissioner Chopra at 3, *In re. Sunkey Publ'g*, F.T.C. (Sep. 6, 2018) 21

Todd C. Frankel et al., *The Gun that Divides a Nation*, Wash. Post (Mar. 27, 2023) 24

Victor C. Strasburger et al., Policy Statement, *Children, Adolescents, and Advertising*, 118 Pediatrics 2563 (2006) 27

We spent more than a year examining the AR-15's role in America. Here's what we learned., Wash. Post (updated Nov. 16, 2023) 21

Wilson Combat, *224 Valkyrie* 18

Zirui Song, *The Business Case for Reducing Firearm Injuries*, 328(12) J. Am. Med. Assoc. No. 1185 (2022) 7

SAMPLE ASSAULT WEAPON ADVERTISEMENTS

Encouraging military-style lethal conduct by civilians:

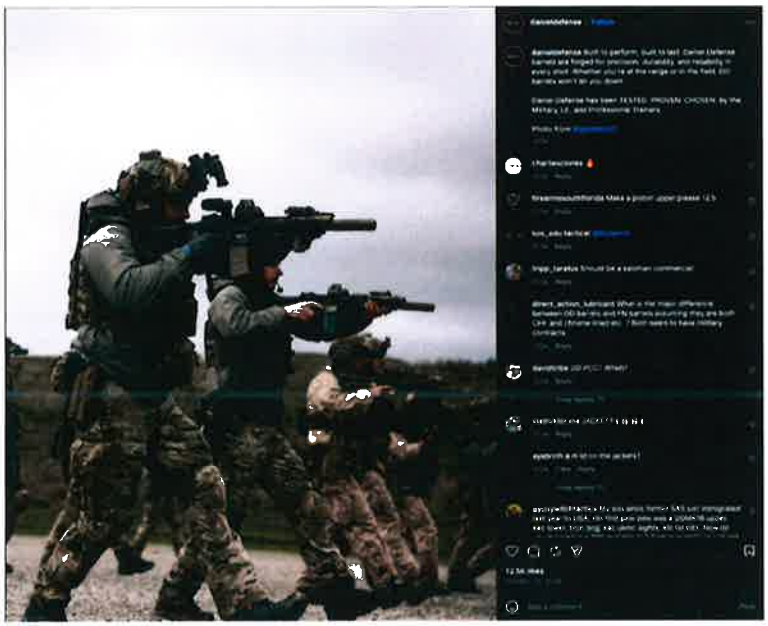


Photo posted by danieldefense (@danieldefense), Instagram (Oct. 23, 2024), https://www.instagram.com/p/DBeI_lzgC5s/?hl=en [https://perma.cc/DU4T-VFTK].

Advertising involving children:



Daniel Defense (@DanielDefense), Twitter, Train up a child in the way he should go, and when he is old, he will not depart from it. (May 16, 2022, at 9:26 ET), https://web.archive.org/web/20220516162747/https://twitter.com/DanielDefense/status/1526237750277681154 [https://perma.cc/273S-R67T?type=image].

***False "self-defense" claims*:**



Daniel Defense Advertisement, *Guns* Magazine, May 2012, at 84.

INTEREST OF *AMICI CURIAE*[1]

Professor Aimee Dinnin Huff is Associate Professor of Marketing at Oregon State University's College of Business. She holds a Ph.D. in Business Administration from the Ivey Business School at Western University and is a marketing scholar whose research focuses on firearms advertising, the U.S. firearms market, and American gun culture. She is an Associate Editor at the *Journal of Business Research* and her peer-reviewed research and analysis has appeared in leading business and marketing journals. She has particular expertise in manufacturers' advertising of assault-style weapons to U.S. consumers and is the lead author of *Implied Uses of Modern Sporting Rifles in Manufacturers' Print Advertising*, recently published in the *Journal of Public Policy & Marketing*.[2] Dr. Huff has presented firearms marketing research at scholarly marketing and public-policy conferences and delivered invited presentations on this topic to academic and professional audiences. She also has served as a consulting witness in litigation involving firearms advertising, applying marketing scholarship and advertising analysis to legal disputes.

Harold Falber served as Vice President of Licensing at Smith & Wesson from 2010 to 2012, after

---

[1] No counsel for a party authored this brief in whole or in part and no person other than *amici* or their counsel made any monetary contributions intended to fund the preparation or submission of this brief.

[2] Aimee Dinnín Huff, Michelle Barnhart & Brett C. Burkhardt, *Implied Uses of Modern Sporting Rifles in Manufacturers' Print Advertising*, 45(4) J. Pub. Pol'y & Mktg. 331 (2026).

providing consulting services to the President of Firearms as well as Smith & Wesson Holdings' CEO on market research, advertising, promotion, and corporate expansion. He previously had an extensive career on Madison Avenue with major U.S. advertising agencies during the creative revolution of the 1960s and 1970s, where he worked on campaigns for Fuji Photo, Teacher's Scotch, Blue Nun Wine, Beck's Beer, Volkswagen, McDonald's Corporation, and Volvo, to name a few. He has held senior management positions overseeing advertising, marketing, and strategy for leading consumer product companies, including Nabisco (imported beer division), Hallmark Flowers & Gifts, Polaroid Corporation, 1-800-Flowers, Treehouse Foods (Sturm Foods), and Volvo of America. He has also provided global consulting services to organizations such as Novartis (Gerber), Alcoa (Reynolds Consumer Products), Presto Products, Baco (UK & Bulgaria), and Nat Sherman Tobacco. At Smith & Wesson, Mr. Falber managed a broad range of corporate and marketing initiatives, gaining direct insight into gun industry advertising, consumer attitudes and usage regarding firearms. He has submitted testimony in the *Goldstein v. Earnest* litigation[3] and contributed to news investigations of firearms marketing conducted by The Washington Post, The Boston Globe, and NPR.

---

[3] No. 37-2020-00016638-CU-PO-CTL (Cal. Super. Ct., San Diego County). This case arises out of the Chabad of Poway Synagogue shooting.

INTRODUCTION AND SUMMARY OF ARGUMENT

Petitioners put considerable weight on the contention that the AR-15 and other assault weapons[4] are ubiquitous in the United States, suggesting that this "popularity" establishes these weapons are "in common use for lawful purposes" and therefore cannot be restricted.[5] Respondents thoroughly discuss the legal and historical flaws in this argument.[6] This brief provides an additional reason to discount allegations relating to the supposed "popularity" of assault weapons: unlawful marketing.

Sales of consumer goods are driven by marketing,[7] and this has certainly been true in the case of assault weapons.[8] The marketing of assault weapons,

---

[4] This brief will use the term "assault weapons," as the gun industry itself originally did before its recent efforts to re-brand the product as "modern sporting rifles." *See* Ryan Busse, *Gunfight: My Battle Against the Industry that Radicalized America* 197–98 (2021); Huff, *Implied Uses*, *supra* note 2, at 333.

[5] *See, e.g.*, Brief of Petitioners at 1, 7–11, 29, 34–37 (Aug. 28, 2026).

[6] Brief for the Connecticut Respondents at 37–50 (Oct. 21, 2026); Brief for the Cook Country Respondents at 46–57 (Oct. 21, 2026).

[7] *See generally* Raj Sethuraman, Gerard J. Tellis & Richard A. Briesch, *How Well Does Advertising Work? Generalizations from Meta-Analysis of Brand Advertising Elasticities*, 48 J. Mktg. Rsch. 457 (2011). Advertising also has lingering, long-term effects on consumer behavior. Marnik G. Dekimpe & Dominique M. Hanssens, *The Persistence of Marketing Effects on Sales*, 14 Mktg. Sci. 1 (1995).

[8] *See* Declaration of Ryan Busse at 22, Ex. 6 to Response in Opposition to Motion for Preliminary Injunction, *Barnett v. Raoul*, No. 3:23-cv-00209 (S.D. Ill. March 2, 2023), *available at*

however, has involved a systematic, widespread pattern of deceptive, unfair and otherwise unlawful tactics, including encouraging illegal conduct.[9] In the view of *amici* this pattern is unlike the experience with any other contemporary consumer product. This marketing uses militaristic imagery and express and implied claims to create "imagined death-worlds,"[10] suggesting that civilians need to own *and use* assault weapons to engage in lethal offensive (as opposed to defensive) action against perceived "enemies," and otherwise encourage vigilantism and other unlawful behavior. As this brief describes, the actions advocated by assault weapon advertising go well beyond any arguably justifiable self-defense. Of particular concern, these ads induce acquisition of extremely dangerous weapons by individuals who are prohibited by federal law from acquiring them, with

---

https://www.courtlistener.com/docket/66755267/37/7/barnett-v-raoul/ [https://perma.cc/7NYW-NRGA] ("Busse Decl.").

[9] *Amici* are not asserting that unlawful advertising has driven every assault weapon purchase in the U.S., nor need they make such a showing: when—as here—advertisements containing material misrepresentations or omissions are widely disseminated, a presumption arises that consumers purchasing the advertised product generally did rely on the unlawful advertisements and were harmed. *FTC v. BlueHippo Funding, LLC*, 762 F.3d 238, 244 (2d Cir. 2014); *FTC v. Figgie Int'l*, 994 F.2d 595, 605-06 (9th Cir. 1993).

[10] Aimee Dinnín Huff, Michelle Barnhart & Noah Schwartz, *The Visual Discourse of Necropolitics in Assault-Style Rifle Print Advertising to U.S. Consumers*, Extended Abstract, Proceedings of the 2026 AMA Marketing and Public Policy Conference vol. 35 at 156, 158–60 (May 16, 2026), https://46387974.fs1.hubspotusercontent-na1.net/hubfs/46387974/Academic%20Conferences/2026%20AMA%20MPPC%20Proceedings%20PDF.pdf [https://perma.cc/9KGY-NCGH].

tragic consequences.[11] The advertising also unlawfully includes images of and appeals to children. Finally, as Respondents have demonstrated, claims that assault weapons are useful for self-defense are false and deceptive[12]: such claims are, however, widespread.

This unlawful behavior should not be ignored or rewarded: no one—including the manufacturers and sellers of assault weapons—should benefit from their own wrongdoing. *See Glus v. Brooklyn E. Dist. Terminal*, 359 U.S. 231, 232–33 (1959) (noting that "[d]eeply rooted in our jurisprudence this principle has been applied in many diverse classes of cases by both law and equity courts[.]").[13] Petitioners should not be permitted to hide the history of unlawful marketing of assault weapons encouraging illegal activity and shamelessly claim that these weapons are exempt from regulation because those tactics succeeded. Sales induced by fraud and other unlawful practices are not legitimate and can be erased or

---

[11] For example, the Columbine shooters were under 18, so they enlisted older friends to buy weapons for them at gun shows. Busse, *supra* note 4, at 101. The shooter at the 2018 Santa Fe High School shooting in Texas was 17, and took the weapons he used from his father's collection. *See* Michael Zennie, Katie Reilly & Jamie Ducharme, *10 Confirmed Dead, 10 Wounded: The Latest on the Santa Fe, Texas School Shooting*, Time (updated Dec. 12, 2023), https://time.com/5282212/santa-fe-high-school-texas-school-shooting/ [https://perma.cc/A8U8-CWE2].

[12] Brief for the Connecticut Respondents at 32–33; Brief for the Cook County Respondents at 36–38.

[13] *See generally Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 815 (1945) ("[Equity] not only prevents a wrongdoer from enjoying the fruits of his transgression but averts an injury to the public.").

effectively nullified by reversal of transactions, restitution and other remedies.[14] Such sales are therefore not a fair indication of consumer preferences and decisions that would exist in the absence of the improper ads. The Court should not conclude that assault weapons are in common use for lawful self-defense merely because of their supposed abundance: that abundance was wrongfully acquired by unlawful and unethical marketing.[15]

ARGUMENT

I. Advertising Standards

A primary reference point for the evaluation of marketing activity is the body of advertising law developed by the Federal Trade Commission pursuant to the prohibition of "unfair or deceptive acts or practices" in Section 5(a) of the FTC Act.[16] These concepts are also enshrined in "[l]ittle FTC Acts" enacted in all 50 states, most of which also provide for

---

[14] *See, e.g.*, FTC Act §§ 5(m), 19, 15 U.S.C. §§ 45, 57b.

[15] *Cf. Polaroid Corp. v. Eastman Kodak Co.*, 641 F. Supp. 828, 878 (D. Mass. 1985) (injunction prohibiting manufacture, use, or sale of products infringing Polaroid patents). The court rejected Kodak's objection that the injunction was impracticable because the infringing products were already in mass circulation, saying that, "[t]o the extent Kodak has purchased that success at Polaroid's expense, it has taken a 'calculated risk' that it might infringe existing patents." *Polaroid Corp. v. Eastman Kodak Co.*, No. 76-1634-Z, 1985 U.S. Dist. LEXIS 15003, at *6, *9 (D. Mass. Oct. 11, 1985); *see also* Denise Gellene, *Ruling Forces Kodak to Quit Instant Camera Field; Recall Launched*, LA Times (Jan. 9, 1986),__https://www.latimes.com/archives/la-xpm-1986-01-09-fi-14373-story.html [https://perma.cc/2YWZ-M634].

[16] 15 U.S.C. §45(a)(1).

private rights of action.[17] The statutory standard for "unfairness" is contained in Section 5(n). Under that section, an act or practice is unfair if it "causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition." "Substantial injury" in advertising cases usually involves economic harm (which is certainly presented by gun violence including mass shootings),[18] but physical injury or death as well as severe emotional and psychological harm can also constitute "substantial injury" for this purpose.[19] Mass shootings facilitated by the use of assault weapons (as encouraged by unlawful marketing) are likely to cause both types of injuries: physical injuries as well as trauma, increased anxiety and insecurity in the community. Such injuries are unavoidable by innocent victims and third-party bystanders.

A practice is considered *deceptive* "if there is a misrepresentation, omission or other practice that misleads the consumer acting reasonably in the

---

[17] *See* 2 Am. Bar Assoc., *Consumer Protection Law Developments* 711, 723–24 (2d ed. 2016).

[18] Research has established that direct medical costs of gun violence generally exceed $1 billion annually, with total economic harm to the U.S. economy estimated at $557 billion annually. Zirui Song, *The Business Case for Reducing Firearm Injuries*, 328(12) J. Am. Med. Assoc. No. 1185, 1185 (2022).

[19] *See FTC v. Accusearch, Inc.*, 2007 WL 4356786, at *8 (D. Wyo. Sep. 28, 2007), *aff'd*, 570 F.3d 1187 (10th Cir. 2009); *In re Int'l Harvester*, 104 F.T.C. 949, 1064 (1984).

circumstances, to the consumer's detriment."[20] Neither deception nor unfairness liability requires a showing of scienter or actual injury.[21]

A second reference is the American Marketing Association code of ethics.[22] This code exhorts marketers to "Do no harm. This means not only consciously avoiding harmful actions or omissions but also striving to benefit all stakeholders and society at large."[23] The code then continues:

> Acknowledge the social obligations to stakeholders that come with increased marketing and economic power. . . . Recognize and accept the consequences of our marketing decisions and strategies. . . . Take appropriate action to explain and mitigate potential significant risks or other foreseeable outcomes that will or could impact any stakeholder.

As described below, assault weapon marketing regularly violates these code provisions and

---

[20] *FTC Policy Statement on Deception*, *appended to* Cliffdale Assocs., 103 F.T.C. 100, 175-76 (1984).

[21] *See FTC v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1029 (7th Cir. 1988).

[22] *See* AMA, *AMA Statement of Ethics*, https://www.ama.org/ama-statement-of-ethics/ [https://perma.cc/RAJ9-EYGC] (last accessed Oct. 25, 2026); Huff, *Implied Uses*, *supra* note 2, at 339–40. The American Marketing Association is "the leading global professional marketing association" and maintains an active program of research, training and professional development in marketing. *See* AMA, Essential Community for Marketers: 2025 Annual Report (2025), *available at* 2FY25-AMA-Annual-Report_November-2025.pdf [https://perma.cc/USJ3-7A9B].

[23] AMA, *AMA Statement of Ethics*, *supra* note 22.

constitutes "unfair and deceptive acts or practices" as articulated under the FTC Act. Claims detailing this misconduct have survived dispositive motions in multiple cases brought following mass shootings. In *Soto v. Bushmaster Firearms International, LLC*, 202 A.3d 262, 306–08 (Conn. 2019), the case brought against Bushmaster following the Sandy Hook Elementary School mass shooting, for example, the Connecticut Supreme Court held that FTC Act and state analogues that "prohibit advertisements that promote or model the unsafe or illegal use of potentially dangerous products" can be applied to assault weapon advertising.[24]

II. Unlawful Aspects of Assault Weapon Advertising

A. Assault Weapons Are Advertised for Illegal, Offensive and Violent Actions

Through militaristic imagery and express and implied claims, many assault weapon ads convey the message that civilians can or should use assault weapons for violent offensive conduct.[25] In fact, such

---

[24] *Id.* at 307; *see also* Order on Mot. to Dismiss at 4, 6, 8, 12, 17, 30, *Roberts et al. v. Smith & Wesson Brands, Inc. et al.*, Case No. 22 LA 00000487 (Cir. Ct. 19th Judic. Cir, Lake County Ill.) (Apr. 1, 2025) (Highland Park parade shooting: plaintiffs sufficiently allege violations of state law regarding assault weapon marketing).

[25] *See* Memorandum from Chairwoman Carolyn B. Maloney to Members of the Committee on Oversight and Reform 10 (July 27, 2022) ("House Memo"), *available at* https://int.nyt.com/data/documenttools/house-committee-on-oversight-and-reform-report-on-gun-industry-practices-and-profits/aa5fa3b29295610e/full.pdf [https://perma.cc/5AK4-PC4R].

conduct by civilians would be unlawful. The ads fuel fear of vastly-overblown threats from named or unnamed "enemies" and stress the urgent need to be armed with assault weapons and take lethal action against such threats.[26] This advertising presents images of military and para-military activity, suggesting that such activity by civilians is appropriate and needed, supported by insinuation of risk and threat from other civilians:[27]

---

[26] Andrew C. McKevitt, *Gun Country: Gun Capitalism, Culture, and Control in Cold War America* 16 (2023) (guns marketed as "instruments of war against domestic enemies and even one's own government"); FACT Petition to FTC, *The Gun Industry's Advertising: Effective, Deadly, and Actionable* 29–30 (Apr. 7, 2022), *available at* https://firearmsaccountability.org/FTCPetition.pdf [https://perma.cc/9EU3-TZN8] ("FACT Petition"); Busse, *supra* note 4, at 233 ("Gun sales, membership, and big fundraising hauls could go up only if the NRA created more fear."); Elliott Woods, *Fear: How the NRA sells guns in America today*, The New Republic (Apr. 16, 2018), https://newrepublic.com/article/147804/fear-how-nra-sells-guns-america [https://perma.cc/FWK4-YVDE]; Ian Karbal, *'Boogaloo' Believers Think a Civil War Is Coming. These Gun Firms Are Openly Marketing to Them,* The Trace (June 29, 2020), https://www.thetrace.org/2020/06/boogaloo-gun-ammunition-marketing-facebook/ [https://perma.cc/26QQ-8YY4].

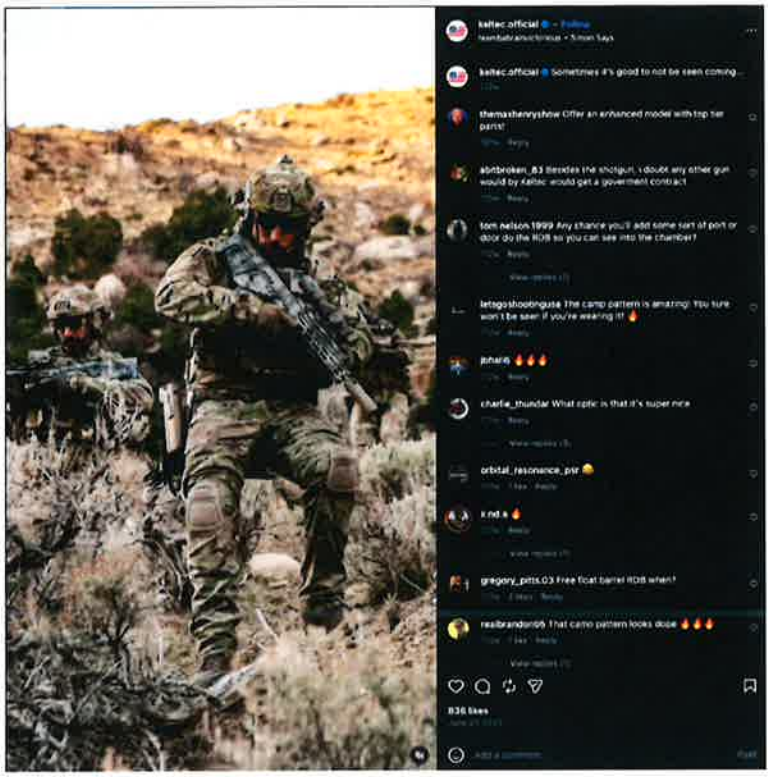
[27] Busse Decl. at 29–30; Complaint from Everytown Law to Samuel Levine, Acting Director, Bureau of Consumer Protection, FTC, at 1 (July 15, 2022), *available at* https://everytown-law.org/documents/2022/07/daniel-defense-ftc-complaint.pdf/ [https://perma.cc/8UEJ-S3TP] ("2022 Everytown Compl.").



Pipe Hitters Union Advertisement, *Recoil* Magazine, Mar. 2018.



Pipe Hitters Union Advertisement, *Recoil* Magazine, Mar./Apr. 2017, at 56–57.



Video posted by keltec.official (@keltec.official), Instagram (June 21, 2023), https://www.instagram.com/p/CtwkvVmvPJV/?hl=en [https://perma.cc/4Y62-EKF9].

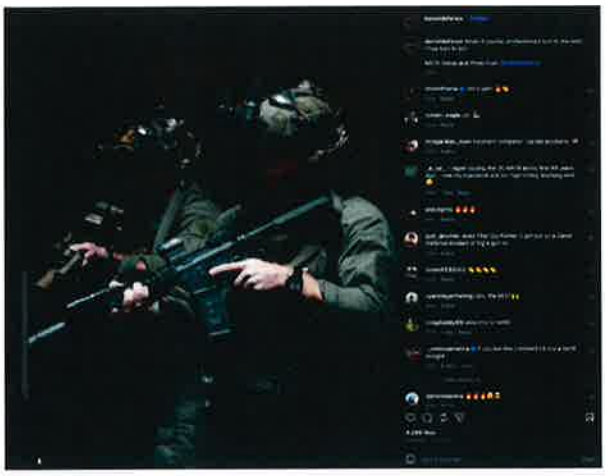


Photo posted by danieldefense (@danieldefense), Instagram (Feb. 14, 2025), https://www.instagram.com/p/ DGEMjovvG_J/?hl=en [https://perma.cc/P65S MCB2].



Photo posted by sonsoflibertygw (@sonsoflibertygw), Instagram (May 23, 2022), https://www.instgram.com/ p/Cd68w7DMdOf/ [https://perma.cc/76PQ-UPB4].

As these ads demonstrate, these campaigns also have a strong undercurrent of racist and extremist appeals.[28] As a general matter appeals to racism are not constitutionally protected.[29]

Amica Huff participated in a recent study that examined over 300 advertisements for assault weapons and made the following findings:

> The ads create imagined death-worlds: visual and textual scenarios depicting imminent lethal threats that necessitate civilian ownership of maximally lethal firearms. These ads portray American society as perpetually dangerous, lawless, and filled with disposable evildoers who threaten the reader. Second, the visual discourse prescribes how these deaths should occur: through tactical, military-style operations using ASRs [assault-style rifles]. Nearly half (49%) of ASR ads containing thematic content depict military scenarios, imagery, or tactical maneuvers, positioning civilian ASR users as paramilitary operators rather than defensive gun owners. . . . engaging in combat scenarios that bear no resemblance to legally recognized self-defense

---

[28] House Memo at 2, 15–18 (describing "manipulative" marketing to white supremacists and other extremist organizations); Busse, *supra* note 4, at 174, 176 (industry benefits from "racial animus fomented by the attacks of 9/11 and then exacerbated by the Iraq War[.]); Huff, *Visual Discourse*, *supra* note 10, at 160 ("[This advertising is] a likely contributor to extremist ideologies and racialized violence[.]).

[29] Frederick M. Lawrence, *Punishing Hate: Bias Crimes Under American Law* chs. 5&6 (1999).

> situations. . . . ASR ads frequently depict or imply illegal use, such as offensive, paramilitary engagement[.][30]

Further research by *amica* Huff and her colleagues confirms this pervasive theme. A recent survey determined that 26% of assault weapon ads encouraged offensive (as opposed to defensive), unlawful use of assault weapons against other people, well beyond any arguably permissible self-defense (which requires, at a minimum, proportional response to threats rather than deadly force as the exclusive action).[31] These ads build on the false claim described below that assault weapons are needed to protect the user, going so far as to suggest the need to prepare for civil war.[32] One observer summarized this theme as follows: "there's a threat out there, and you need to confront it, you know, just like the police do. You can be just like them."[33]

---

[30] Huff, *Visual Discourse*, *supra* note 10, at 156, 158–60.

[31] Huff, *Implied Uses*, *supra* note 2, at 333, 336 ("encouraging viewers to place themselves in the metaphorical 'boots' of military personnel and imagine using the advertised firearm to carry out the military mission depicted or implied"); *see also* 2022 Everytown Compl. at n.4 (citing studies); *cf Bianchi v. Brown,* 111 F.4th 438, 449 (4th Cir. 2024) (*en banc* opinion by Wilkinson, J.) (describing limitations on exercise of self-defense).

[32] Busse, *supra* note 4, at 305; *See also* Greg Lickenbrock, *Sig Sauer Ad Urges AR-15 Owners to Take Up Arms*, The Smoking Gun (Feb. 14, 2024), https://smokinggun.org/sig-sauer-ad-urges-ar-15-owners-to-take-up-arms/ [http://perma.cc/E6VY-SJ62]; 2022 Everytown Compl. at 2, 22 (references to killing human beings in the "Squid game" ad).

[33] NPR Fresh Air Broadcast, *How the AR-15 Became the Bestselling Rifle in the U.S.*, NPR, at 11:42–12:02 (Apr. 20, 2023),

Numerous ads explicitly depict or describe offensive, domestic vigilante conduct. This "Use What They Use" ad says the advertised assault weapon is suitable "[w]hether you are patrolling a foreign land, the city streets, or your own home:"[34]



Daniel Defense Advertisement, *Guns & Ammo* Magazine, Sep. 2013, at 51.

Assault weapons made by the sponsor of this ad, Daniel Defense, were used at the Uvalde school shooting in 2022 and were among the weapons used by the Las Vegas shooter in 2017.

---

https://www.npr.org/transcripts/1171027638 [https://perma.cc/VA2D-9KKM].

[34] *See* 2022 Everytown Compl. at 122–23.

Another manufacturer, Patriot Ordinance Factory, advertises its Puritan AR-style assault weapons "for use against all enemies foreign and domestic:"



Patriot Ordinance Factory USA Advertisement, *Recoil* Magazine, July/Aug. 2014, at 57.

The "Rooftop Ready" advertisement from Daniel Defense, although the advertised product is a bolt-action rifle and not an assault weapon, demonstrates how far the company is willing to go to encourage combat-style action against non-combatant fellow citizens:



Photo posted by danieldefense (@danieldefense), Instagram (Mar. 2, 2022), https://www.instagram .com /p/CanLahtuCHf/?img_index=1 [https://perma .cc/5EST-AWVE].

In the same vein, Wilson Combat advertised an assault weapon as an "Urban Super Sniper."[35]

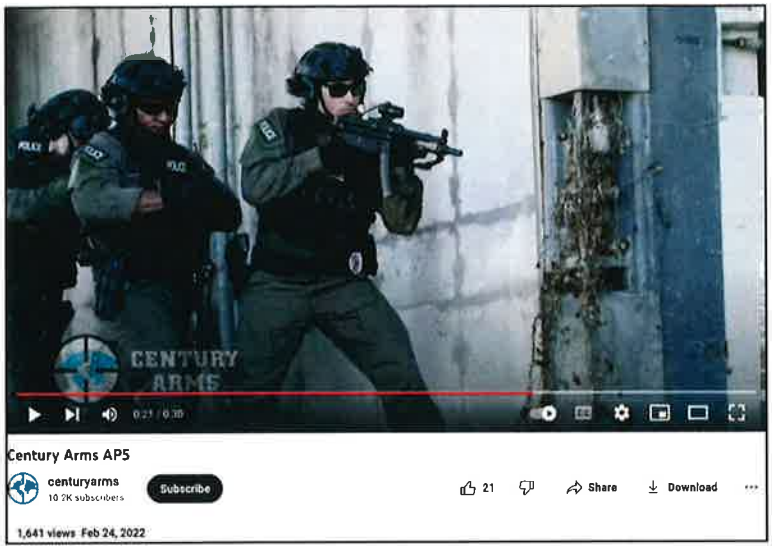
---

35 Wilson Combat, *224 Valkyrie*, https:www.wilsoncombat.com/ar-calibers/224-valkyrie/super-sniper/

In addition to these express claims, these ads use combat terms such as "tactical" and employ images of soldiers, combat situations and military equipment, such as body armor, that are not part of normal civilian use of firearms.[36] These ads encourage consumers to emulate military "tactical" scenarios. The sponsor of this ad, Century Arms, sold the assault weapon used in the 2019 Dayton Historic District shooting:

[https://perma.cc/RHR4-DUS5] (last visited Oct. 25, 2026), *see* Busse Decl. at 30 (now re-named "super sniper").

[36] 2022 Everytown Compl. at 4, 7–9, 16; Huff, *Visual Discourse*, *supra* note 10, at 158–59; *see generally* Busse, *supra* note 4, at 179 ("gun sales became synonymous with supporting the military"). *See* Alex Horton, Monique Woo & Tucker Harris, *Flannel, muddy girl camo and man cards. See the ads used to sell the AR-15.*, Wash. Post (updated Apr. 11, 2023), https://www.washingtonpost.com/business/interactive/2023/history-of-ar-15-marketing/ [https://perma.cc/5GNJ-G4DP] (picturing police with AR-15s); Complaint from Everytown Law to Samuel Levine, Acting Director, Bureau of Consumer Protection, FTC, at 6 (Aug. 17, 2021), *available at* https://everytownlaw.org/wp-content/uploads/sites/5/2021/08/2021.08.17-SW-FTC-Submission.pdf [https://perma.cc/44K5-DS4S].



Centuryarms, Century Arms AP5, (YouTube, Feb. 24, 2022), https://www.youtube.com/watch?v=r0htu6sge-8 [https://perma.cc/3AF3-PBM?type=standard].

One investigative reporter noted efforts to capitalize on the wars in Iraq and Afghanistan, reporting that after the federal assault weapon ban expired in 2004, "rifles once sold almost exclusively in black became available in desert tan and foliage green."[37] Assault weapon advertising and associated gun sales spiked, and became more aggressive, after the expiration of the federal ban, and again during the COVID pandemic.

Firearm manufacturers have directed substantial marketing efforts using militaristic ads at young men, approximately ages 18 through their early twenties.

---

[37] Horton, *supra* note 36.

These ads (including product placement and other tie-ins to violent video games) draw on the thrill-seeking and impulsive tendencies of susceptible young men who are attracted to violence and military fantasies.[38] The adolescent male demographic is, by virtue of the developmental stage of this group, particularly susceptible to advertising messages encouraging dangerous conduct through use of imagery related to masculinity, military culture, or sex appeal.[39] The "masculinity" theme is prominent in this advertising.[40] Bushmaster has been a conspicuous offender in this regard, with the infamous "Consider Your Man Card Reissued" ad, as well as promising "Your Status at the Top of the Testosterone Food Chain Is Now Irrevocable."[41]

---

[38] 2022 Everytown Compl. at 29–30.

[39] *See We spent more than a year examining the AR-15's role in America. Here's what we learned.*, Wash. Post (updated Nov. 16, 2023), https://www.washingtonpost.com/nation/2023/03/27/ar-15-facts-what-we-learned/ [https://perma.cc/R9R8-2T89]; *Examining the Practices and Profits of Gun Manufacturers: Hearing Before the H. Comm. on Oversight and Reform*, 117th Cong. (July 27, 2022) (testimony of Ryan Busse, Senior Advisor, Giffords Law Center); *see also* Statement of Commissioner Chopra at 3, *In re. Sunkey Publ'g*, F.T.C. (Sep. 6, 2018), *available at* https://www.ftc.gov/system/files/documents/public_statements/1408028/1623211_sunkey_publishing_rc_and_rks_statement.pdf [https://perma.cc/J6CY-3N8S] ("Preying on young people who want to serve our country in uniform is particularly troubling").

[40] *See* 2022 Everytown Compl. at 29–31; 2022 FACT Petition at 28; House Memo at 1, 9, 13–15; Horton, *supra* note 36 (quoting *amica* Huff: ads "vaguely implicate some enemy that the gun user needs to employ their masculinity against"); Busse, *supra* note 4, at 183.

[41] House Memo at 14.



Emma Gray, *Bushmaster Rifle Ad Reminds Us to Ask More About Masculinity and Gun Violence (PHOTO)*, Huffpost (Dec. 17, 2012), https://www.huffpost.com/entry/bushmaster-rifle-ad-masculinity-gun-violence-newtown-adam-lanza_b_2317924 [https://perma.cc/F49N-TXRC].

The gun in these ads, the Bushmaster XM15, was used by young men in the Sandy Hook, CT, and Tops Friendly Market, Buffalo, NY, shootings.[42] A Bushmaster AR-15-style weapon was also used in the 2002 Washington DC sniper shootings. It is not unconventional to use advertising to appeal to young men to engage in lawful activities to seem "adult," but it is quite problematic to frame "being a man" as the wielding of indiscriminate deadly force.[43]

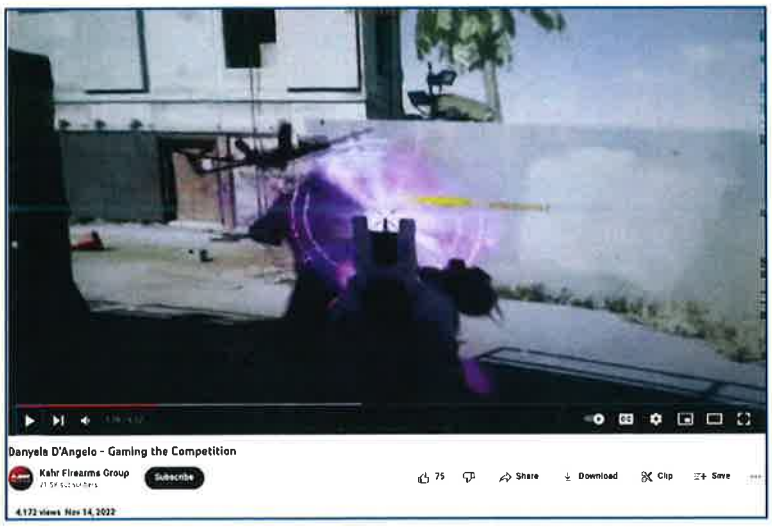
Assault weapon marketing to young men largely consists of strategic product placement agreements

---

[42] Busse Decl. at 26.

[43] *See* House Memo at 13–14.

with video games and aggressive social media campaigns. These strategies exploit the well-documented appeal of military imagery and tactical aesthetics to young male consumers.[44] As a result of placement agreements and explicit tie-ins between the game producers and gun manufacturers, popular video games such as *Call of Duty* let players simulate combat with assault weapons identical (down to precisely duplicated sounds of gunfire) to those commercially available.[45]

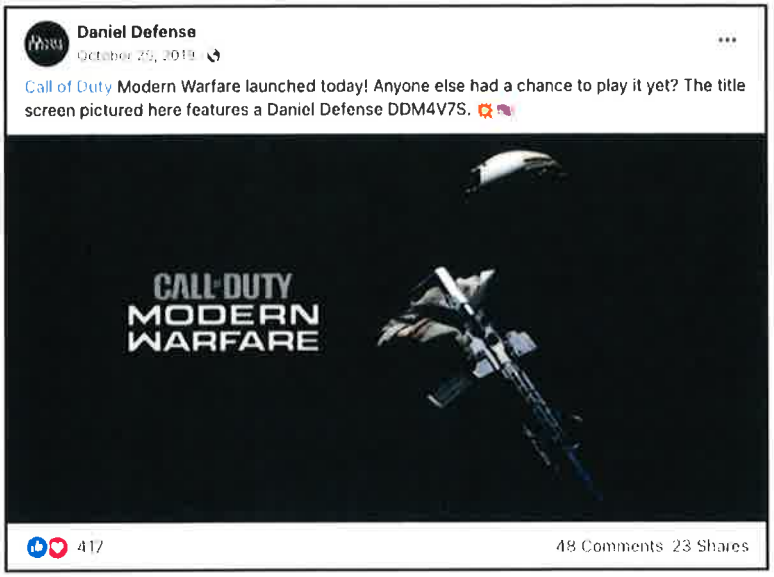


Kahr Firearms Group, Danyela D'Angelo – Gaming the Competition, (YouTube, Nov. 14, 2022), https://www.youtube.com/watch?v=HShTZC3zvRY [https://perma.cc/UW9X-DYA4].

---

[44] *See id.* at 11–15.

[45] *See id.* at 18–20; Busse, *supra* note 4, at 185; 2022 Everytown Compl. at 2, 18–20; McKevitt, *supra* note 23, at 255–56.



2022 Everytown Compl. at 18.

The assault weapon industry knows that young men are the predominant consumers of these video games, and intentionally seeks to use video game product placements to appeal to this segment of potential customers.[46] In a striking example of the influence of these video games, the Sandy Hook shooter duct-taped two magazines together to allow for near-instant reload by flipping the magazine over, which mimics a game move in Call of Duty.[47]

---

[46] Todd C. Frankel et al., *The Gun that Divides a Nation*, Wash. Post (Mar. 27, 2023), https://www.washingtonpost.com/nation/interactive/2023/ar-15-america-gun-culture-politics/ [https://perma.cc/2ZUC-8QYD]; Busse, *supra* note 4, at 185.

[47] CBS News, *Sandy Hook Shooting: The Unprecedented $73M Settlement with Gunmaker Remington* (May 29, 2022),

The offensive military-style activities promoted by these ads are illegal.[48] The ads, therefore, are deceptive and unfair.[49] Every state in the U.S. prohibits armed individuals from engaging in militia and "law enforcement"-type activity unless called up and supervised by the state.[50] Nor do the references to the "militia" in the Constitution compel a different result, despite the arguments of several *amici* supporting Petitioners. The suggestion that the type of firearms protected by the Second Amendment evolves with developing conditions of contemporary military combat was expressly rejected in *Heller*.[51]

---

https://www.cbsnews.com/news/sandy-hook-shooting-the-un-precedented-73m-settlement-with-gunmaker-remington/ [https://perma.cc/A2K8-2Y5C].

[48] *See* Brief for the Cook County Respondents at 55–57.

[49] *See FTC v. Neovi, Inc.*, 604 F.3d 1150 (9th Cir. 2010) (finding that QChex's marketing of a checkwriting service that could be used to generate false checks was unfair); *FTC v. LeadClick Media, LLC*, 838 F.3d 158 (2d Cir. 2016) (finding that LeadClick engaged in deception when it knew some of its affiliates were using fake news sites to promote their products and provided those affiliates with content to use on those sites); *see also Central Hudson Gas & Electric Corp., v. Public Service Commission of New York*, 447 U.S. 557, 563-64 (1980) (speech that proposes an illegal activity is not protected by the First Amendment).

[50] Huff, *Implied Uses*, *supra* note 2, at 335–36; Georgetown Law, *Prohibiting Private Armies at Public Rallies: A Catalog of Relevant State Constitutional and Statutory Provisions* 5–6, 9–15, Inst. Const. Advoc. & Prot. (4th ed. 2024), *available at* https://www.law.georgetown.edu/icap/wp-content/uploads/sites/32/2024/02/50-state-survey-v4-FIN.pdf [https://perma.cc/7ZHM-5X9F]; *see Presser v. Illinois*, 116 U.S. 252, 267–68 (1886).

[51] *See District of Columbia v. Heller*, 554 U.S. 570, 627–28 (2008) (modern warfare may require "sophisticated arms," "[b]ut the fact that modern developments have limited the degree of fit between the prefatory clause and the protected right cannot change our interpretation of the right" under the Second Amendment).

Amici supporting Petitioners are also simply wrong to suggest that the militia clause creates a right of private militia activity or preparation. The militia has always been a public institution subject to government control.[52] Accordingly, as just noted, state constitutions and statutes throughout the Nation have long emphasized that military force must remain subject to civilian authority, and states have routinely vested control over militia organization, training, and deployment in public officials.

In addition to its intended effect of increasing demand for assault weapons, this advertising will likely have one (or both) of two consequences: (a) encouraging or inducing some law-abiding citizens to undertake a highly dangerous, illegal activity, often without adequate training, that is highly likely to result in harm to themselves or those around them, or (b) appealing to criminals and others contemplating mass shootings and other violent behavior.[53] The advertising is therefore unfair (as defined in Section 5(n) of the FTC Act), and violates the AMA code.[54]

---

[52] *See* note 50, *supra*.

[53] *See* Busse, *supra* note 4, at 97 ("Lower-quality, less-expensive, high-capacity 'assault'-style guns were far more likely" to be used in crimes than higher-quality, more expensive, lower capacity guns.).

[54] Huff, *Implied Uses*, *supra* note 2, at 339–40 (ads that contribute to normalization of violence and unlawful conduct fail responsibility and citizenship obligations of code, violate "do no harm" standard (encouraging self-defense when may not be lawful), validate vigilantism to oppose and do harm to those responsible for social unrest or political movements they oppose).

B. Improper Marketing of Assault Weapons to Minors and Young Adults

1. Firearm Advertisements Involving Children Are Unfair

Firearm manufacturers and retailers have engaged in a sustained pattern of marketing firearms through advertisements that depict children interacting with firearms in dangerous ways. This advertising is particularly reprehensible: children are vulnerable to unfair or deceptive acts or practices in marketing because they are less likely to look at advertisements critically and are more likely to take the claims and depictions at face value, and also because as a group they are more likely to engage in "risky, thrill-seeking, violent, and impulsive behavior."[55]

The FTC has accordingly brought numerous enforcement actions challenging other consumer product advertising that depicts children engaging in dangerous behavior.[56]

---

[55] Victor C. Strasburger et al., Policy Statement, *Children, Adolescents, and Advertising*, 118 Pediatrics 2563, 2563 (2006); Cornelia Pechmann et al., *Impulsive and Self-Conscious: Adolescents' Vulnerability to Advertising and Promotion*, 24 J. Pub. Pol'y & Mktg. 202, 203–07 (2005); *see also*, Jenny Radesky et al., Policy Statement, *Digital Advertising to Children*, 146 Pediatrics 1 (2020); 2022 Everytown Compl. at 29.

[56] *See, e.g.*, *Hasbro*, 116 F.T.C. 657 (1993); *Lewis Galoob Toys*, 114 F.T.C. 187 (1991); *Gen. Mills Fun Group, Inc.*, 93 F.T.C. 749 (1979) (all finding deception where toy ads depicted the products performing beyond their capabilities, in part because children, unlike adults, were less likely to discern that these products might not perform that way in real life); *Uncle Ben's*, 89 F.T.C.

The FTC has been particularly critical of advertising of inherently dangerous products, such as cigarettes and alcohol, that are marketed in ways that are designed to appeal to children and young adults.[57] More recently, the FTC has issued warning letters to e-cigarette manufacturers for featuring "labeling and/or advertising that resemble kid-friendly food products, such as juice boxes, candies, or cookies, some of them with cartoon-like imagery."[58]

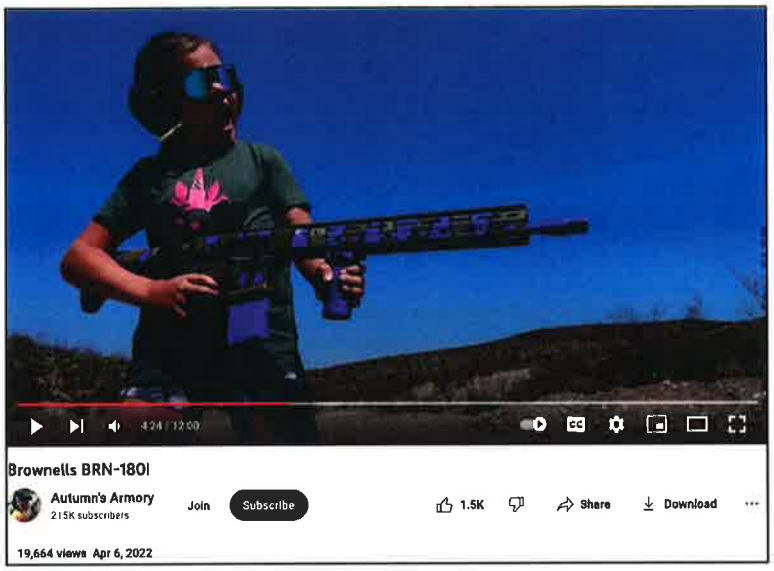
This is precisely the path, however, followed by the assault weapon marketing program. A number of assault weapon advertisements by major brands in prominent media formats depict small children handling assault weapons, accompanied by supportive messaging:

---

131 (1977) (depicting children cooking without adequate safety precautions or adult supervision); *see also AMF*, 95 F.T.C. 310 (1980) (depicting children riding bicycles in a dangerous manner); *Mego Int'l*, 92 F.T.C. 186 (1978) (depicting children using hair dryers unsafely)

[57] *R.J. Reynolds Tobacco Co.*, 127 F.T.C. 49 (1999) (Joe Camel mascot); *Beck's Beer*, FTC Consent Order, C-3859 (1999) (statement of Commissioner Thompson), *available at* https://www.ftc.gov/legal-library/browse/cases-proceedings/982-3092-becks-north-america-inc-matter [https://perma.cc/G2ZL-FPCT].

[58] FTC, *FDA Take Action Against Companies Marketing E-liquids That Resemble Children's Juice Boxes, Candies, and Cookies* (May 1, 2018), https://www.ftc.gov/news-events/news/press-releases/2018/05/ftc-fda-take-action-against-companies-marketing-e-liquids-resemble-childrens-juice-boxes-candies [https://perma.cc/LK4U-26V6].



Autumn's Armory, *Brownells BRN-180!*, (YouTube, Apr. 6, 2022), https://www.youtube.com/watch?v=U17OlM7ttRU [https://perma.cc/F5B7-DMPN].



Complaint from Everytown Law to Andrew Smith, Director, Bureau of Consumer Protection, FTC, at 20 (May 31, 2020), *available at* https://everytown-law.org/wp-content/uploads/sites/5/2020/06/ftc-letter.pdf [https://perma.cc/4L57-3SA8].

These manufacturer ads attempt to normalize—for parents and their children—the use of deadly force by a young child. Daniel Defense makes a Biblical allusion to encourage exposure of youth to assault weapons:

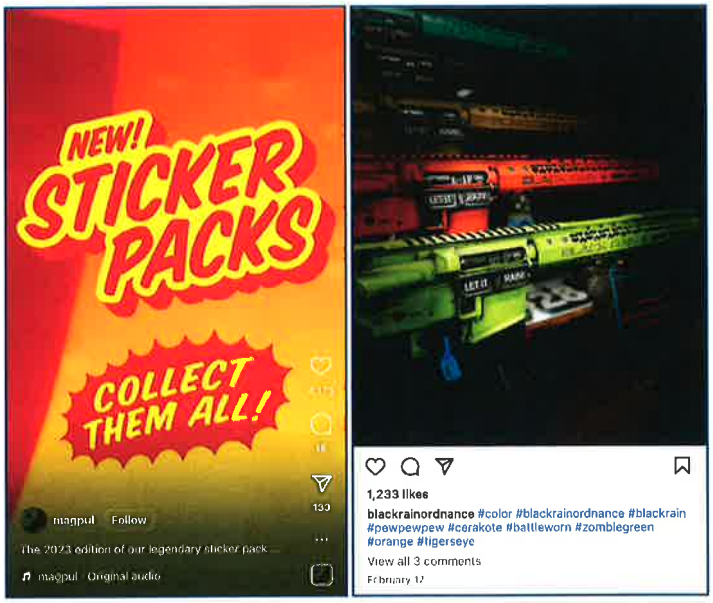


Daniel Defense (@DanielDefense), Twitter, Train up a child in the way he should go, and when he is old, he will not depart from it. (May 16, 2022, at 9:26 ET), https://web.archive.org/web/20220516162747/https://twitter.com/DanielDefense/status/1526237750277681154 [https://perma.cc/273S-R67T?type=image].

Other advertisements use child-friendly imagery, colors, and media tie-ins in a manner that specifically appeals to children, much like material e-cigarette manufacturers were warned about as noted above.



Photo posted by spikes_tactical (@spikes_tactical), Instagram (Oct. 13, 2020), https://www.instagram.com/p/CGSDH2-AZ6s/?hl=en [https://perma.cc/7YQ2-AVZZ].



Video posted by magpul (@magpul), Instagram (Apr. 13, 2023), https://www.instagram.com/p/Cq--BfkNCUV/ [https://perma.cc/S2YY-AHQY]; photo posted by blackrainordnance (@blackrainordnance), Instagram (Feb. 17, 2023), https://www.instagram.com/p/CoxbGbYORl0/ [https://perma.cc/49J9-DMLX].

In addition to the video game tie-ins described above, firearm manufacturers and retailers maintain extensive social media campaigns to reach younger audiences. These have included collaborations with prominent cultural figures and celebrities,[59] and are deployed on platforms such as Instagram, which is disproportionately popular among younger audiences.

---

[59] 2022 Everytown FTC Complaint, at 2, 21.

The following post shows performer Post Malone with an assault weapon in front of a liquor cabinet:[60]

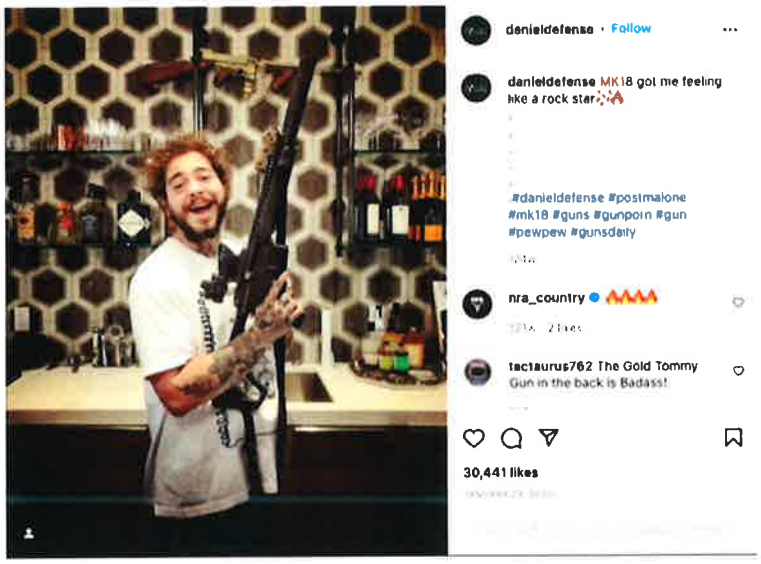


Photo posted by danieldefense (@danieldefense), Instagram (Jan. 23, 2020), https://www.instagram.com/p/B7rS5RvAKog/?hl=en [https://perma.cc/RYT6-5QUA].

The content of these social media campaigns frequently incorporates themes—including tactical aesthetics, irreverent humor, and references to popular culture—that are strategically designed to appeal to adolescent audiences.

---

[60] *Id.* at 2.

2. *Firearm Manufacturers Have Marketed Actual Firearms as Toys for Children*

In addition to depicting children in advertisements and adopting marketing schemes designed to appeal to younger audiences, perhaps the most egregious example of the industry's youth-directed marketing is the JR-15, a child-sized version of the AR-15 assault weapon, manufactured by Wee 1 Tactical and marketed explicitly as a firearm for children. The JR-15 was branded with imagery and messaging designed to appeal to minors, effectively marketing a lethal weapon as though it were a toy:



See 2022 FACT Petition at 10.

Although Wee 1 Tactical eventually modified its marketing approach following significant public backlash,[61] the very existence of such a product—and the manufacturer's initial decision to market it in this manner—underscores the breadth of the industry's efforts to cultivate a youth market for firearms.

The cynical targeting of a developmentally vulnerable population—minors and young men whose incomplete risk assessment abilities, susceptibility to aspirational identity formation, and propensity for thrill-seeking behavior make them uniquely susceptible to such marketing—is likely to result in serious harm and is plainly unlawful.

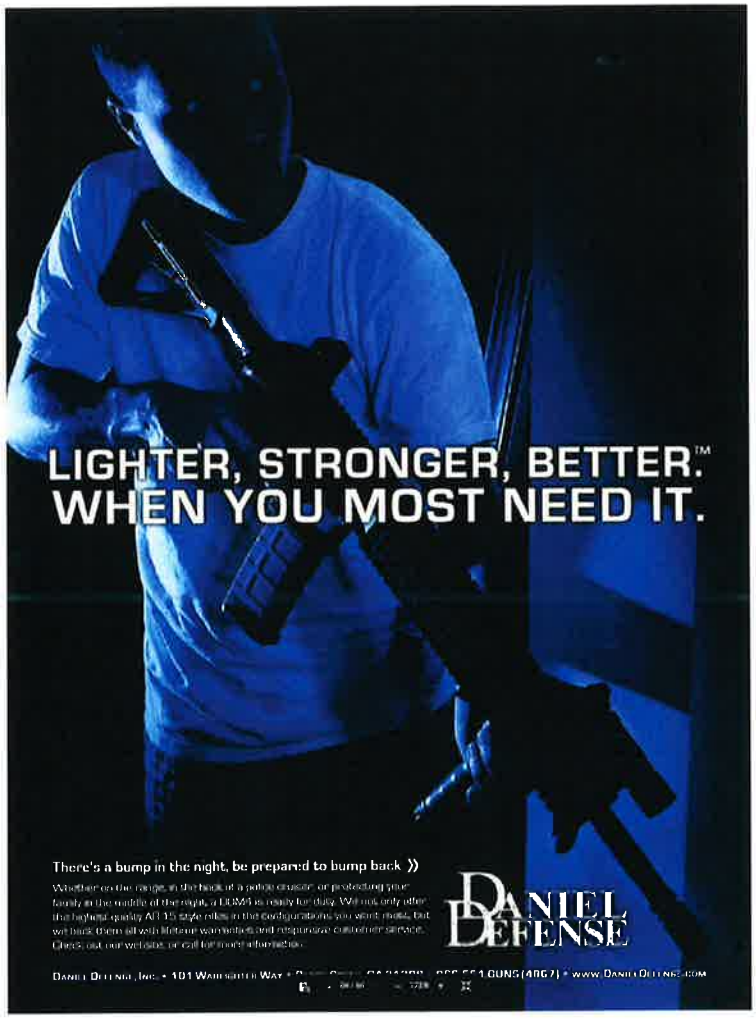
C. Deceptive Personal Defense and Safety Claims

Respondents correctly note that despite "safety" and "self-defense" justifications, assault weapons are infrequently used for self-defense and are ill-suited for that purpose.[62] This theme is nevertheless routinely employed in assault weapon marketing:

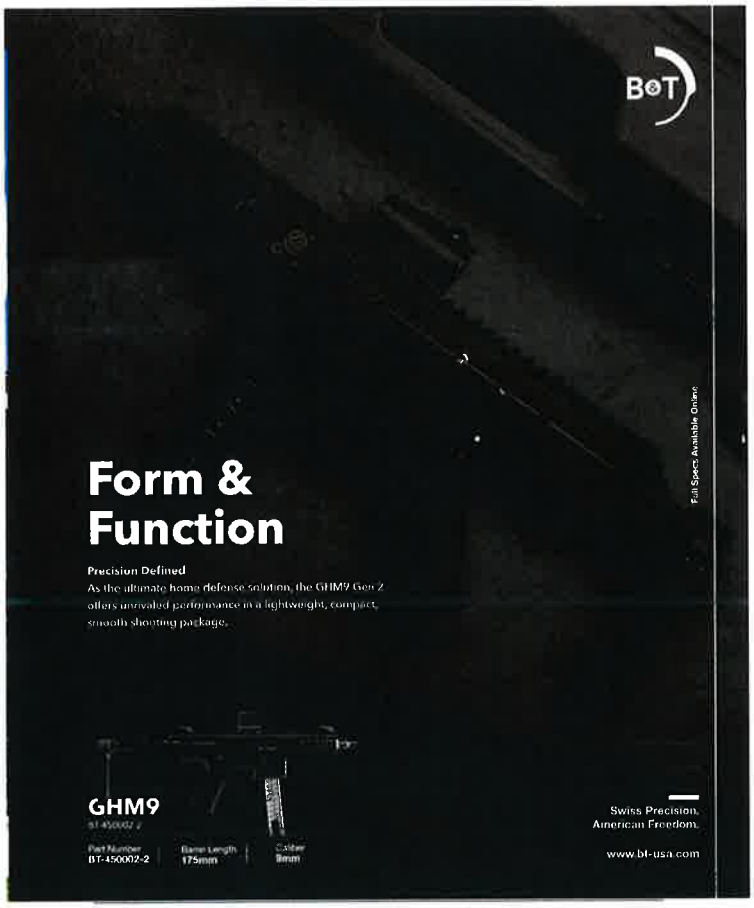
---

[61] *Compare* 2022 FACT Petition at 10 *with* JR 15 .22 Long Rifle Specifications, *available at* https://vpc.org/wp-content/uploads/2023/01/wee1onepager2023.pdf [https://perma.cc/2DRM-BMM7] (last accessed Oct. 27, 2026). Notably, even the "modified" marketing approach still depicts a young child using the weapon.

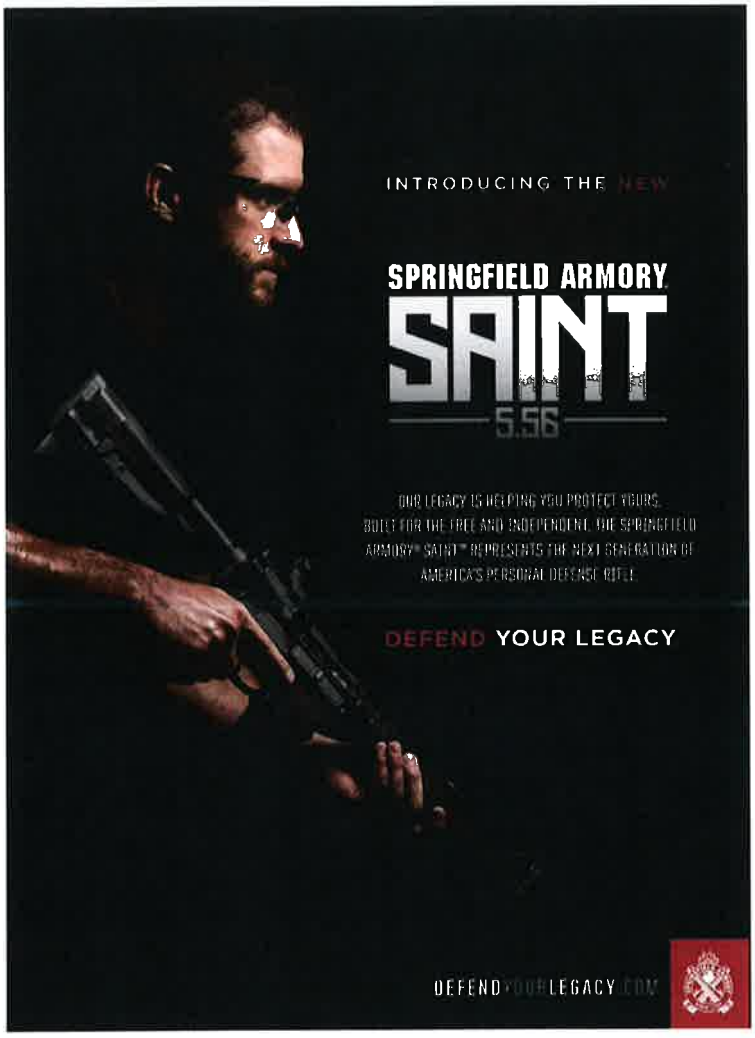
[62] Brief for the Cook County Respondents at 36–38; Brief for the Connecticut Respondents at 32–33.



Daniel Defense Advertisement, *Guns Magazine*, May 2012, at 84.



B&T Advertisement, *Recoil* Magazine, Mar./Apr. 2022, at 29 ("the ultimate home defense solution").



Defend Your Legacy Advertisement, *American Rifleman* Magazine, Feb. 2017, at 39 ("the next generation of America's personal defense rifle").

From an advertising law perspective, the claim that an assault weapon will "make you safer" or be useful for self-defense is simply false—dangerously so—and cannot be ameliorated by qualifiers, disclaimers or other disclosures.

* * *

CONCLUSION

The assertion of the "popularity" of assault weapons is a dangerous fiction. Sales of these weapons have been generated through unlawful marketing tactics, including ads that encourage unlawful and inappropriate vigilante activities, exploit racist and extremist biases, and prey on the vulnerability of children and young men. Petitioners ignore the program of unlawful marketing that contributed to the demand for assault weapons. But that program indicates that these purchases are tainted and do not reflect how consumers would behave in the absence of this unlawful marketing. This case should not be decided on the false premise that the "popularity" of assault weapons precludes their regulation.

Respectfully submitted,

John Graubert
Counsel of Record
Taylor Kay
Munseong Park
Yevgeniy Pilipovskiy
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, D.C. 20001
(202) 662-6000
jgraubert@cov.com

Counsel for Amici Curiae

October 28, 2026