

THE GUN INDUSTRY'S ADVERTISING: EFFECTIVE, DEADLY, AND ACTIONABLE

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Submitted by Brady, Giffords Law Center to Prevent Gun Violence, and March For Our Lives, in partnership
with the Firearms Accountability Counsel Taskforce.

firearmsaccountability.org

**The Gun Industry’s Advertising:
Effective, Deadly, and Actionable**

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I. The FTC Must Investigate and Regulate the Gun Industry’s Unfair and Deceptive Advertising.

The FTC’s Bureau of Consumer Protection has a clear mandate: to protect consumers from unfair and deceptive practices in the marketplace. But, thus far, the FTC has failed to fulfill this mandate with respect to the gun industry. The FTC is failing consumers, failing our democracy, and failing the millions of Americans who have lost their lives or their loved ones to gun violence. The FTC’s inaction has also harmed countless more Americans who must live with the scars, trauma, and emotional and economic damage that America’s gun violence epidemic, fomented by the gun industry for profit, has caused. The FTC can and must change this. No industry—regardless of its political clout—should be immune from scrutiny of its marketing and advertising.

This Petition, brought by Brady, Giffords Law Center to Prevent Gun Violence (“Giffords Law Center”), and March For Our Lives, in partnership with the FACT Coalition (collectively, “Petitioners”), demands that the FTC exercise its broad investigative and enforcement powers to investigate and regulate the gun industry’s advertising practices. As we show, the FTC’s inaction has allowed the gun industry to spend decades using unfair and deceptive advertising to sell deadly weapons to an American public that has been falsely led to believe that gun ownership is a safe way to protect their home and family.

This message is working. We see its dangerous efficacy, sadly, every day. On October 6, 2021, four people were injured in a shooting at Timberview High School in Arlington, Texas after a fight broke out at the school. The following day, text messages between a Timberview student and his mother went viral:

Today 9:15 AM

mom there's a shooting

mom

help

Where

pls

school

mom

fr

Am calling police

Where are u

school

ms hererra

mom i'm scared

Are u safe

idk mom

When the public sought to understand how yet another school shooting could have happened, a spokeswoman for the shooter’s family explained that the young shooter had allegedly been bullied and robbed at school. “The decision he made, taking the gun, we’re not justifying that,” the spokeswoman said. “That was not right. But he was trying to protect himself.”¹

The deceptive “guns as a safe means of protection” message has been taking hold in the American psyche for decades, while the FTC has effectively given the gun industry a free pass. In 1996, when Brady (then known as the Center to Prevent Handgun Violence) first asked the FTC to investigate the gun industry’s egregious advertising, the FTC took no action.

At that time, the American public understood—accurately and consistent with public health data—that owning a gun or having a gun in the home made them, their families, and their loved ones less safe, not more safe. But decades of unfair and deceptive advertising—unchecked by the FTC—have flipped the script. Americans now believe, against all the evidence, that having a gun in their home or on their person makes them and their loved ones safer. Like the shooter at Timberview, they believe that guns are the ideal means of protection.

If the gun industry’s primary message were true—if guns actually made Americans safer—then, as gun ownership has increased, violence should have decreased, making America an extraordinarily safe nation. But the horrifying reality shows the opposite. On the same day as the Timberview shooting, four shooters in New Orleans opened fire on four men working on a stormwater drainage project for an environmental nonprofit.² A man in Oakland was killed in a drive-by shooting outside of his home.³ A 15-year-old boy accidentally shot himself in Portsmouth, Virginia.⁴ This single day is a tragic snapshot in a much longer, unbroken string of deadly gun violence.

On an average day in 2020, more than 120 Americans were killed by a gun, and that year, 45,222 people lost their lives to gun violence—the most ever recorded by the Centers for Disease Control and Prevention (“CDC”).⁵ Middle- and high school-age children are now more likely to die from a gun injury than from any other single cause of death.⁶ That tragic statistic bears repeating: *Middle- and high school-age children are now more likely to die from a gun injury than any other single cause of death.* It is the FTC’s responsibility to use its investigative powers to determine what it can do to curb this crisis—as it did decades ago to protect children from the dangerous marketing practices of tobacco companies. And the FTC’s action against the tobacco industry is by no means the only example of the FTC acting on its mandate to protect children directly or indirectly from deceptive and unfair practices. In the last year, the FTC, along with members of Congress⁷ and a coalition of state attorneys general,⁸ has sought information from social media platforms on how their practices impact children and teens.⁹ The FTC cannot in good conscience continue to pick and choose when to use its mandate to protect children while ignoring the dangerous advertising practices for a product that is killing American children.

The gun industry has spent years propagating unfair and deceptive advertisements to convince the American public to believe that what is deadly will protect them. And while Americans die, the gun industry profits. Over the last 25 years, it has sold more guns than ever before through its highly effective and unlawful advertising. The gun industry is not above the law. The FTC must act.

II. The Gun Industry’s Advertising Is Both Unfair and Deceptive—and Therefore Actionable.

Section 5 of the FTC Act prohibits “unfair or deceptive acts or practices in or affecting commerce.”¹⁰ We demonstrate below that the gun industry has been running unfair and deceptive advertisements for more than a quarter century.

A. Unfair practices

An advertisement is unfair where: (a) it causes or is likely to cause substantial injury to consumers; (b) the injury is not reasonably avoidable by consumers; and (c) the injury is not outweighed by any countervailing benefits to consumers or competitors.¹¹

The FTC considers an injury to be substantial “if it does a small harm to a large number of people, or if it raises a significant risk of concrete harm.”¹² For example, an advertisement that creates “[u]nwarranted health and safety risks” may be unfair.¹³ Similarly, the FTC has stated that advertising practices that result in a serious risk of severe physical injury, even to a small number of people, may be unfair, particularly where the advertising is “injurious in its net effect” on the American public.¹⁴ Further, where advertising is likely to result in serious bodily injury, the FTC considers it “especially likely” that a cost-benefit analysis will support a finding of unfairness.¹⁵

The FTC has also found advertisements to be unfair where they “unreasonably create[] or take[] advantage of an obstacle to the free exercise of consumer decision-making,” for example by withholding information that may be critical to informed comparison and consumer choice.¹⁶ The Commission has made clear that, when the advertised product potentially poses a risk to consumers’ health and safety, general warnings, or instructions may not be enough to put consumers on guard. And, where consumers are unaware of particular risks because advertisers have withheld information, the FTC has found that the consumers cannot reasonably avoid those risks.¹⁷

B. Deceptive practices

An advertisement is deceptive if it includes any representations or omissions that are (a) material to a consumer’s decision to purchase a product and (b) likely to mislead a reasonable consumer.¹⁸

The FTC has found representations or omissions to be material if they are “likely to affect a consumer’s choice of or conduct regarding a product.”¹⁹ The Commission has also made clear that any express or implied claims in advertisements that the advertiser specifically intended to convey or that involve the safety, purpose, or efficacy of the product are presumptively material.²⁰ For example, in an enforcement action from the 1980s against a manufacturer of heat detectors, the FTC found the manufacturer’s advertisements to be deceptive where the manufacturer claimed that its heat detectors provided an effective warning to allow people to escape from house fires and were as effective as smoke detectors in that function, but evidence showed that these claims were false.²¹

III. The Gun Industry's Advertising Has Misled Consumers into Believing that Guns Make Them Safer, While Deaths and Injuries from Gun Violence Have Only Risen.

A. The gun industry has been manipulating consumers and pushing the limits of advertising for decades.

All evidence shows that guns make Americans less safe, not more safe. Studies consistently confirm that gun possession, ownership, and use are associated with increased risks of death and injury.²² When individuals keep guns in their homes, the odds are greater that the gun will kill or injure them, their family members, and any cohabitants than that it will protect them.²³ The same is true when people carry guns outside the home.²⁴

In rare instances, some gun owners do successfully use their weapons in the midst of the extreme terror of self- or home-defense. But the evidence establishes that any such examples are the exception rather than the rule. Contrary to this reality, the gun industry's advertisements ubiquitously claim that guns unequivocally enhance safety and are necessary to protect consumers and their families.

This false message leads to many injuries and deaths, often of children. Guns that are purchased to protect families frequently end up being used in “family fire”²⁵ shootings—used by children to unintentionally shoot themselves, their brothers or sisters, or others; used in suicides; and used against women in domestic abuse. Other guns brought into the home for self-defense are often stolen and used in crime. These consequences of gun ownership are far more common, and more foreseeable, than the use of guns in any legitimate self-defense or home protection.

Free from any oversight, the gun industry has pushed its false claims for decades. Twenty-five years ago, in February 1996, Brady submitted a petition to the FTC requesting that the Commission “order handgun manufacturers to refrain from publishing advertisements that suggest their products will make the owner and his or her family safer when, in fact, bringing a handgun into the home actually decreases safety.”²⁶ Brady pointed to specific unfair and deceptive advertisements, some of which are reproduced below, that propagated this message by suggesting that an unsecured, unlocked handgun on a bedside table would “tip the odds” in favor of the gun owner, act as an efficient form of “homeowner’s insurance,” and otherwise provide “safe[], reliab[le], and functional[]” protection for the gunowner’s family.²⁷ These advertisements ran in the *Ladies’ Home Journal* in the 1990s:



Tip the odds in your favor.


Introducing the Beretta Model 86, the only .380 automatic pistol with a tip-up barrel for easy and rapid loading. It allows for safe storage with an empty chamber, but simple, one-step loading in an emergency. Plus you'll get 86's 1 fingerover and all the safety, reliability and functional features traditionally found in Beretta medium frame pistols. If you're considering a handgun for personal protection, here's one that offers it all. See the Model 86 at your nearest Beretta Dealer, or contact Beretta U.S.A. Corp., 17601 Beretta Drive, Accokeek, MD 20607, (301) 283-2191.

 **Beretta U.S.A.**



Homeowner's Insurance.

When you're protecting what's yours, only two things matter in a handgun... accurate firepower and total reliability. That's why Beretta's 84F and 85F models are preferred for both police backup and personal use. Both include features found on the legendary 92F, including open slide design, external hammer, firing pin catch and trigger bar disconnector. Family protection is too important for second-best... see your nearest Beretta dealer or contact Beretta U.S.A. Corp., 17601 Beretta Drive, Accokeek, MD 20607, (301) 283-2191.

 **Beretta U.S.A.**

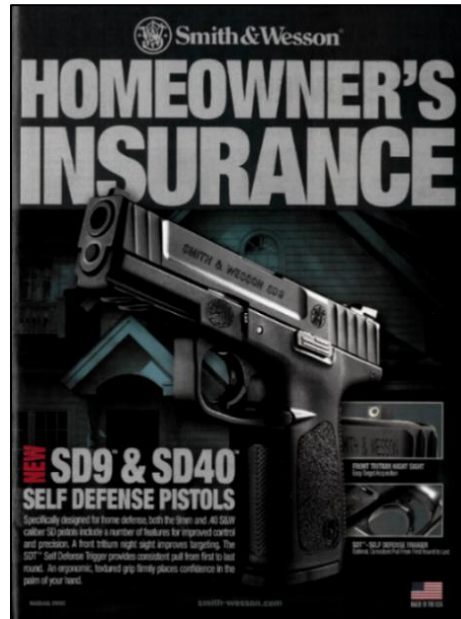
As discussed further below, when Brady submitted its 1996 petition, most Americans correctly believed that keeping a gun in their home would not make them safer. The FTC took no public action in response to the 1996 petition. Later the same year, Congress passed the Dickey Amendment, which prohibited the CDC from using funds to promote gun control. This provision had the practical effect of ending federal research into gun violence.²⁸ The gun industry thus continued its advertising practices with impunity, and was further bolstered by additional liability shields, including the Protection of Lawful Commerce in Arms Act (“PLCAA”) that was passed in 2005.²⁹

In recent years, Smith & Wesson, one of the largest players in the industry, ran the advertisement below—a nearly shot-for-shot recreation of the advertisements that Brady identified as unfair and deceptive more than 25 years ago.³⁰ The advertisement asks if the consumer has a firearm at their bedside, despite the fact that the method of storage depicted violates safe storage laws in about a dozen states:³¹



(Smith & Wesson Instagram post from Jan. 3, 2020,
last visited Mar. 27, 2022)

Contemporary advertising also continues to propagate the misleading message that guns constitute effective home defense. For example, the Smith & Wesson advertisement below describes a gun as “homeowner’s insurance,” twice invokes “self-defense,” and claims that the gun is “specifically designed for home defense” with no substantiation.³²



(In 2010 and 2011, Smith & Wesson ran this ad four times to a national audience in *Field & Stream Magazine*, *Combat Handguns*, and *Guns & Ammo*.)

Advertisements from Beretta use the hashtag #winthefight to convey that the weapons can be used as a means of self-protection or defense:³³

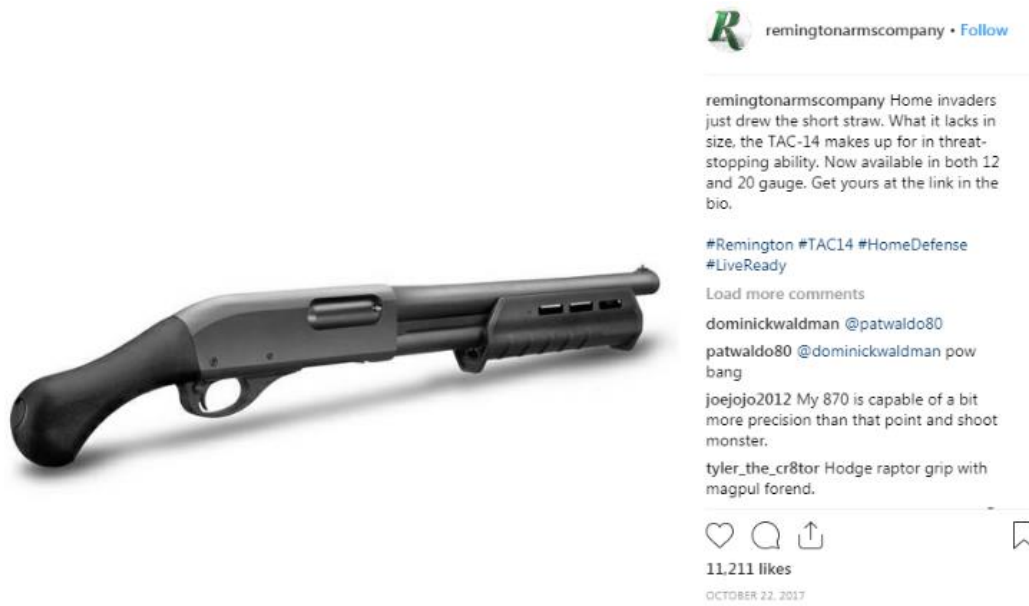


(Beretta Instagram post from May 25, 2018, last visited Mar. 27, 2022)



(Beretta Instagram post from Nov. 5, 2018, last visited Mar. 27, 2022)

A Remington advertisement says that one of its weapons has “threat-stopping ability” and that “[h]ome invaders just drew the short straw,” and uses the hashtag #HomeDefense.³⁴



(Remington Facebook post from Oct. 22, 2017)

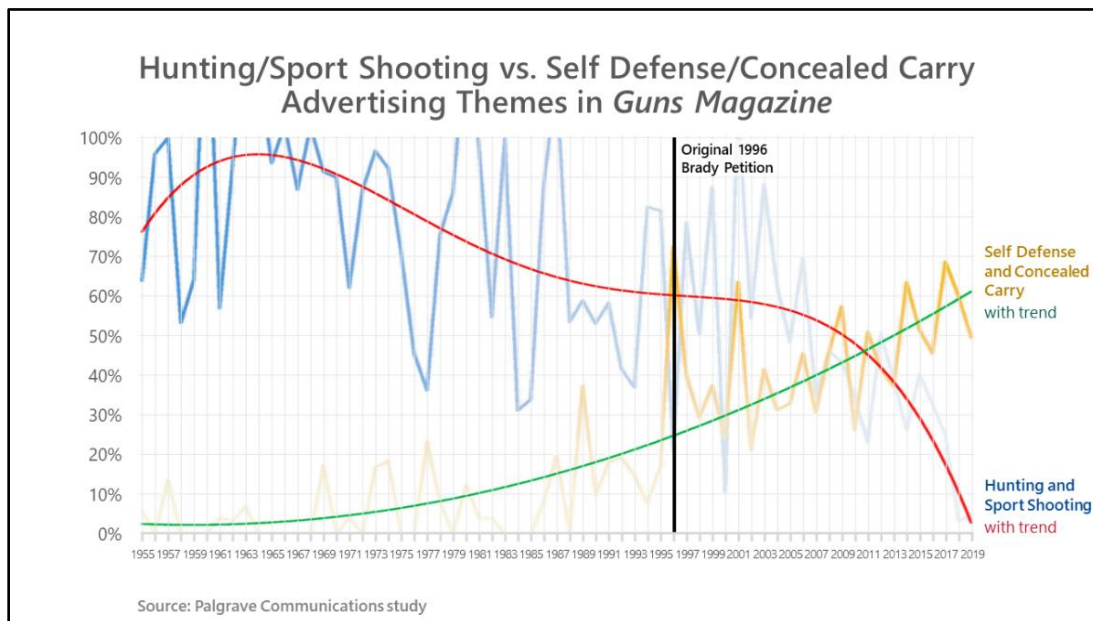
A Glock advertisement quotes a purported user as saying, “Thank you for making a gun I trust our lives with,” and uses the hashtag #ProtectTheFamily.³⁵



(Glock Instagram post from Mar. 14, 2017, last visited Mar. 27, 2022)

These advertisements are neither accidents nor anomalies. Rather, the gun industry has made a calculated marketing decision to convince Americans that they need guns inside their homes—or, ideally, with them at all times—to protect themselves and their families.

Studies examining the gun industry’s advertising practices have identified a clear trend towards advertisements focused on personal protection in the last 25 years. For example, a 2020 study that analyzed advertisements in *Guns* magazine from 1955 to 2019 found that the advertisements demonstrated a clear “shift in the core emphasis of US gun culture”—while advertisements previously promoted guns primarily for “hunting and recreational shooting,” contemporary ads relentlessly focus on the purported need for “armed self-defense”.³⁶



B. The gun industry’s unfair and deceptive advertisements now reach more consumers than ever through social media and other advertising platforms.

The gun industry’s shift to advertising increasingly focused on concealed carry and self-defense has corresponded with the advent of social media platforms and massive overhauls of the marketing industry itself. The gun industry is now able to target and reach a larger—and younger—audience than ever before.³⁷ Key players in the industry have amassed huge social media followings in recent years. For example:

- Glock has 2.1 million Instagram followers, 1.9 million Facebook likes, and 72,700 YouTube subscribers.³⁸
- Ruger has 632,000 Instagram followers, 603,600 Facebook likes, and 101,000 YouTube subscribers.³⁹
- Smith & Wesson has 1.1 million Instagram followers, 1.46 million Facebook likes, and 125,000 YouTube subscribers.⁴⁰

Each of these players—along with essentially every major player in the gun industry—regularly posts content and advertises on these platforms, allowing them to directly engage with millions of consumers daily. These social media posts and advertisements are often geared towards young audiences, who are both particularly susceptible to advertisements for inherently

dangerous products⁴¹ like guns and particularly valuable life-long customers for the industry. The National Shooting Sports Foundation has even issued guidance recommending that the gun industry (a) “use social media and web sites to raise interest and help youth find ways to hunt and target shoot”; (b) “team with current online media firms to take advantage of their reach and their abilities to communicate with youth”; and (c) emphasize “fun” messages “because youth are online to be entertained.”⁴²

Despite the fact that federal and state laws nationwide set minimum ages to purchase or possess firearms, the gun industry places no age-verification restrictions on its online content or advertising, making it an outlier among industries selling inherently dangerous products—including alcoholic beverages, tobacco products, and even lottery tickets—which routinely use such restrictions to limit youth access to their content.

Gun industry participants have targeted children across other media as well.* At the January 2022 SHOT Show in Las Vegas, Illinois gun manufacturer WEE1 Tactical unveiled an AR-15 style rifle for children that it dubbed the “JR-15.”⁴³ The WEE1 promotional materials include logos of boy and girl skull-and-crossbones with pacifiers in their mouths and targets in their eyes:



* This Petition does not focus on the gun industry’s practice of targeting youth audiences, although it recognizes the practice as both widespread and particularly dangerous. Petitioners are prepared to supplement this Petition with additional information regarding this pervasive and pernicious practice, if it would aid the FTC.

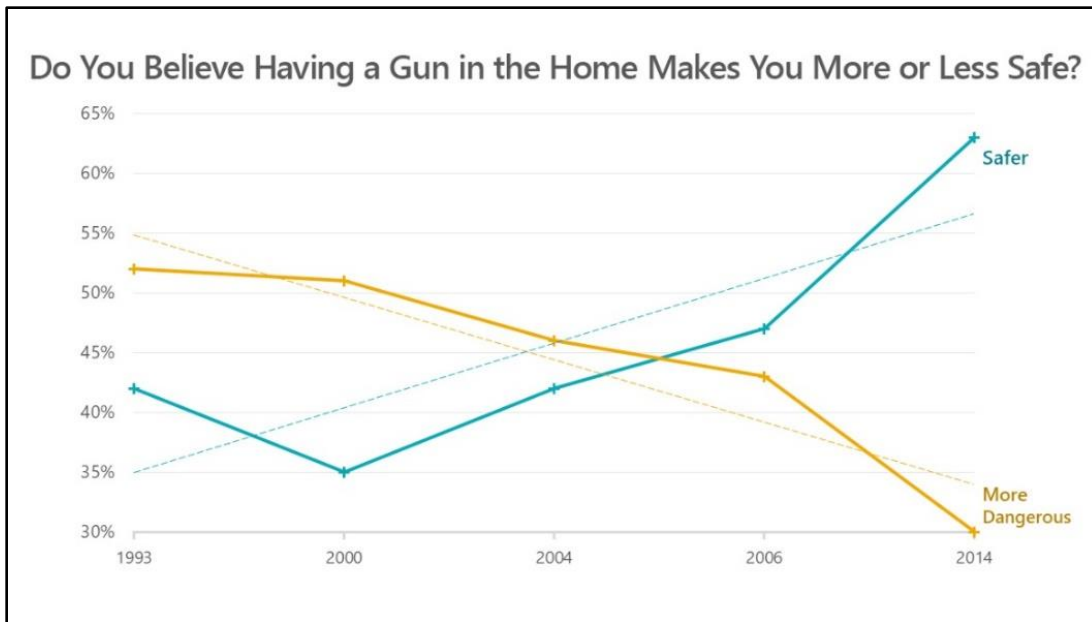
The advertisements claim that the JR-15 “looks, feels, and operates just like Mom and Dad’s gun,” and tells parents to “get em one like yours.” In conformity with the deceptive trend of claiming that guns offer safety, the manufacturer has also stated publicly that it “believe[s] that this introduction early on will produce a deep respect for firearms that continue and last for a lifetime of safety!”⁴⁴



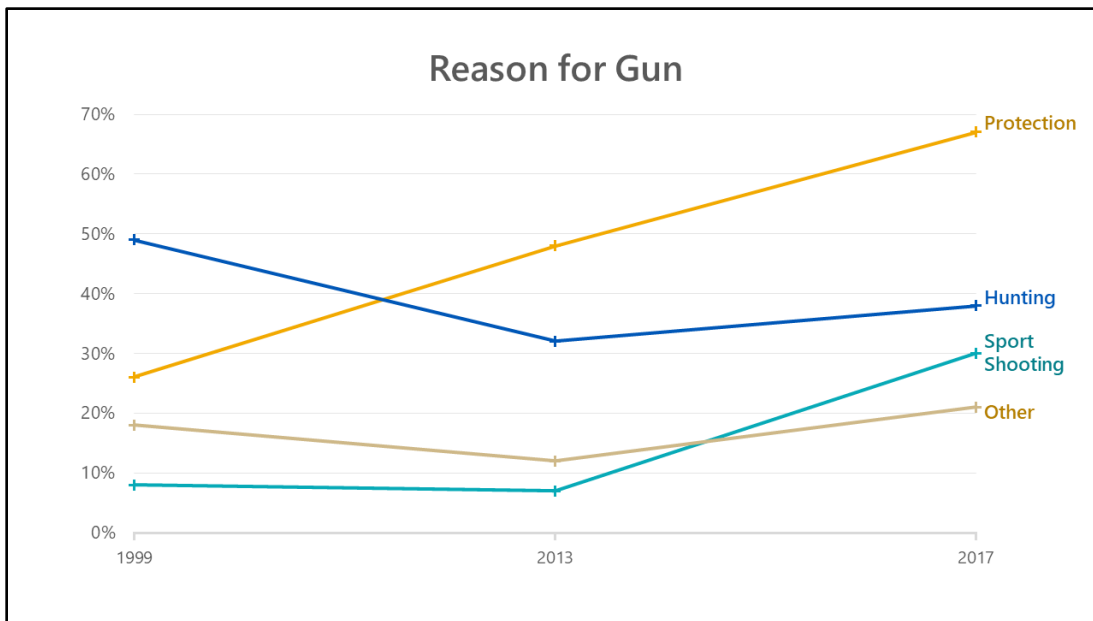
(A page from Wee1 Tactical’s JR-15 brochure that has since been taken down from its website)

C. The gun industry’s onslaught of misleading advertising claiming that guns offer safety has worked.

The gun industry’s decades-long campaign to push the message that guns make people safer has proven highly effective. The graph below demonstrates that, as the gun industry began manipulating the public with its distorted safety and self-defense message in the late 1990s, once-skeptical Americans came to believe it. In 2000, only 35 percent of Americans believed that having a gun in their home would make them safer; by 2014, that number had skyrocketed to 63 percent.⁴⁵ Conversely, while in 2000 the majority of Americans believed that having a gun in their home made it a more dangerous place to be, that number had fallen to 30 percent by 2014.⁴⁶



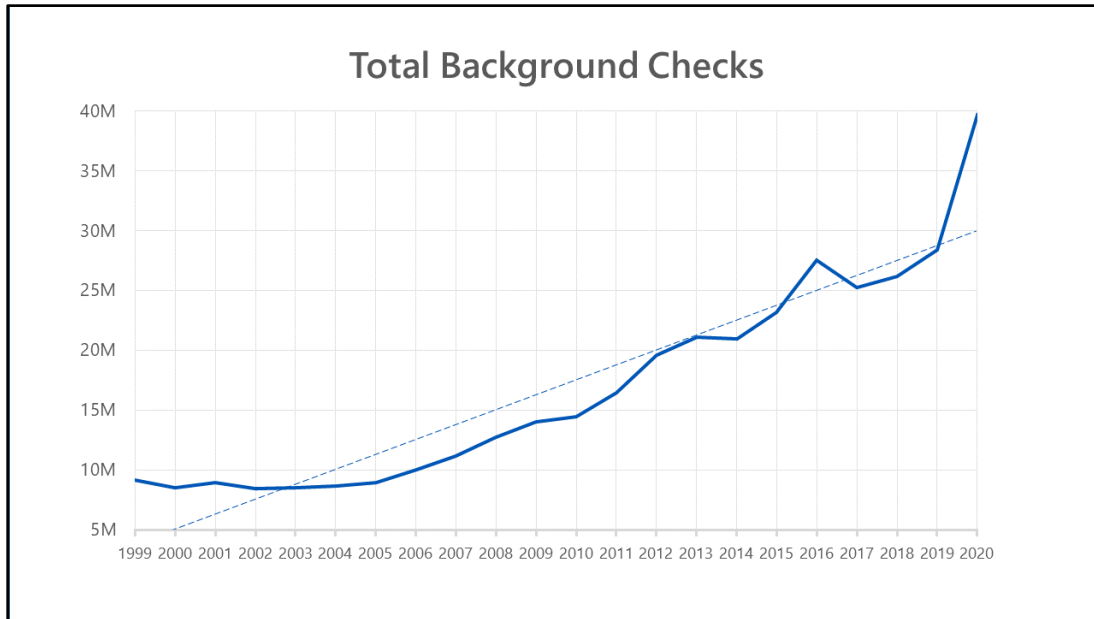
Similarly, as the graph below demonstrates, the number of Americans citing personal protection as a primary reason for buying a gun grew dramatically during this period, from just over 25 percent in 1999 to over 65 percent in 2017.⁴⁷ As discussed further below, however, research continues to show that guns only increase danger. Put differently, the evidence that guns do not make people safer has not changed; only Americans' perception has.



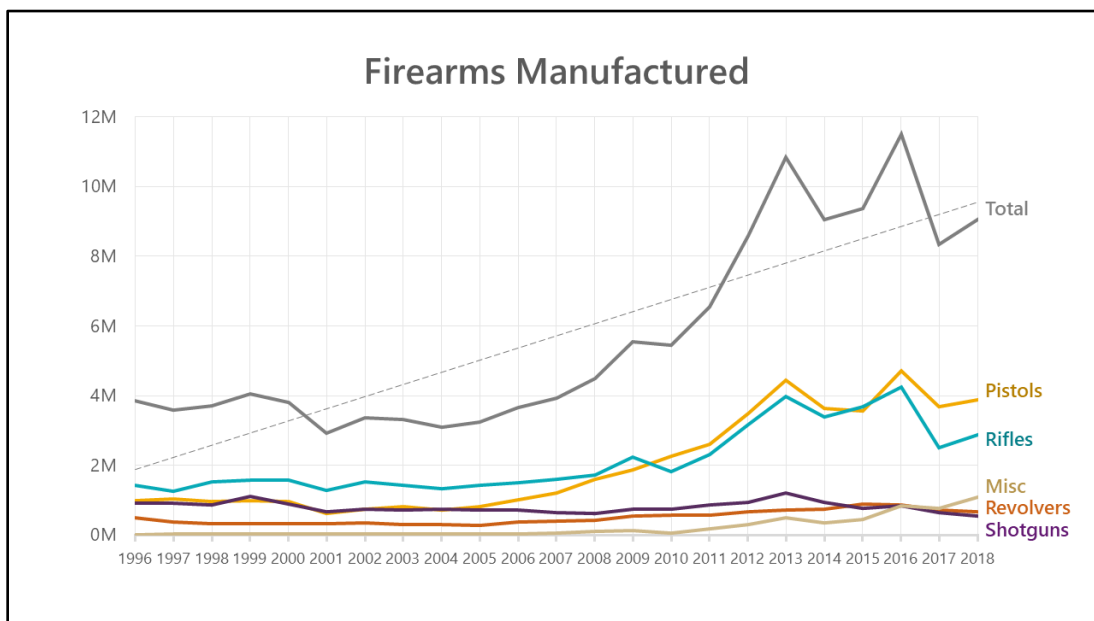
D. The gun industry is reaping unprecedented profits from the success of its unfair and deceptive message.

The gun industry's unfair and deceptive advertising has resulted in unprecedented profits. By any measure, the gun industry is booming. For example, as shown below, the total background

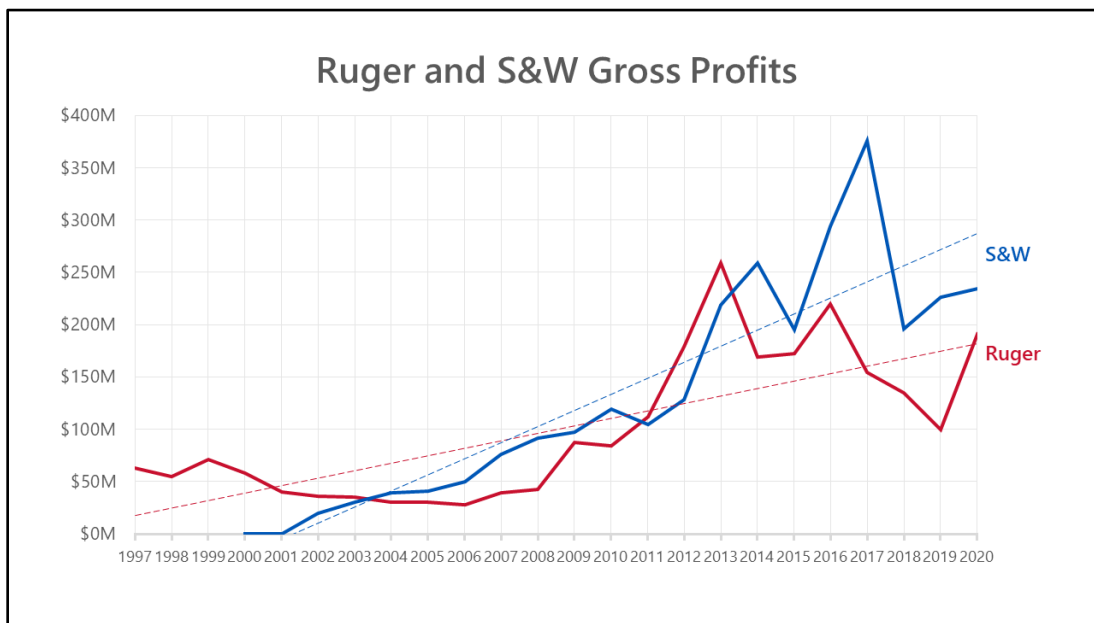
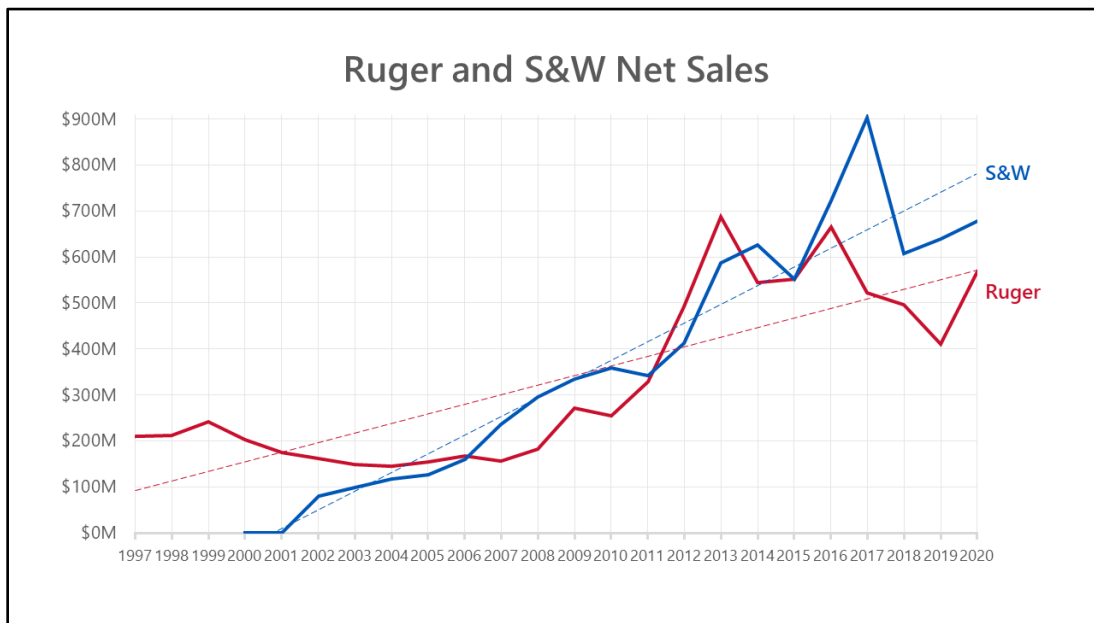
checks conducted annually by the National Instant Criminal Background Check System (“NICS”)—a metric often used as a proxy for gun sales in the U.S. because sales are not tracked independently—has increased substantially over the last 20 years.⁴⁸ This was especially true in 2020, when a new record for the number of NICS checks was set *almost every single month*. This trend continued through 2021.⁴⁹



The quantity of guns manufactured in the U.S. has also increased substantially—particularly with respect to pistols, which are frequently depicted in self-defense-focused advertisements.⁵⁰



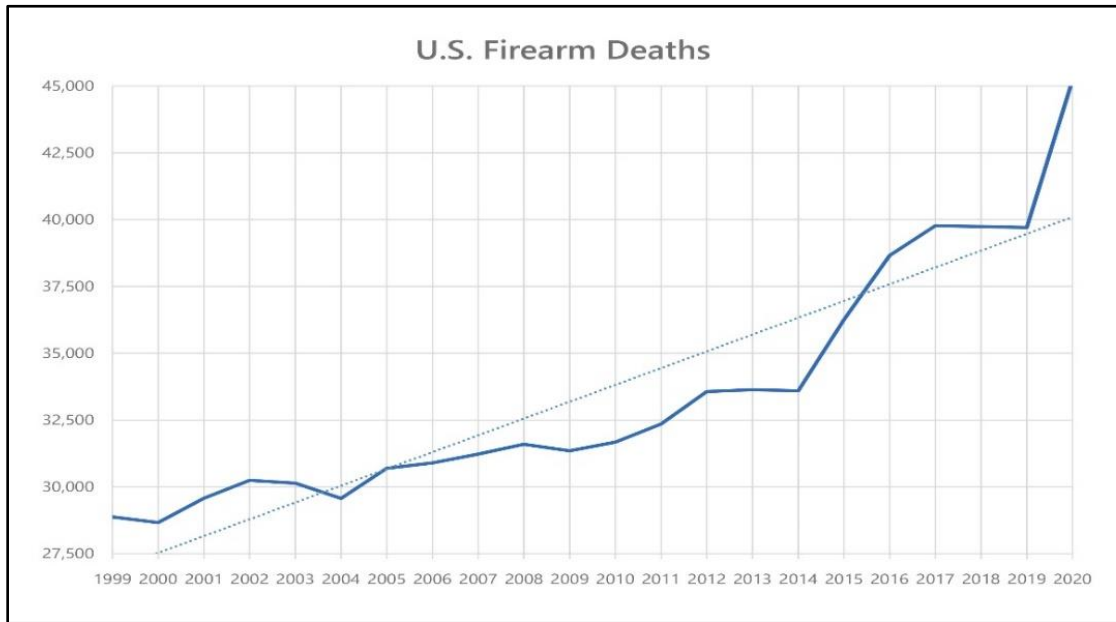
These increases in gun manufacturing and sales have translated into growing profits for the gun industry. The charts below show a significant increase in both Ruger's and Smith & Wesson's net sales and gross profits over the last two decades:⁵¹



E. Gun violence has risen sharply.

If the gun industry's advertisements claiming that guns make people safer were true, then, as gun manufacturing and ownership skyrocketed over the last several decades, Americans should have seen a decrease in gun violence. The opposite is true. As the gun industry makes millions propagating its unfair and deceptive message, the number of gun-related deaths in the U.S. has increased sharply.

The graph below quantifies gun-related deaths over the last 25 years, based on CDC data:⁵²



Gun deaths are now among the leading causes of death nationwide, and more than 45,000 people were killed by guns in 2020.⁵³ Middle- and high school-age children are more likely to die from a gun injury than from any other single cause of death.⁵⁴

IV. The Gun Industry's Advertising Is Actionable.

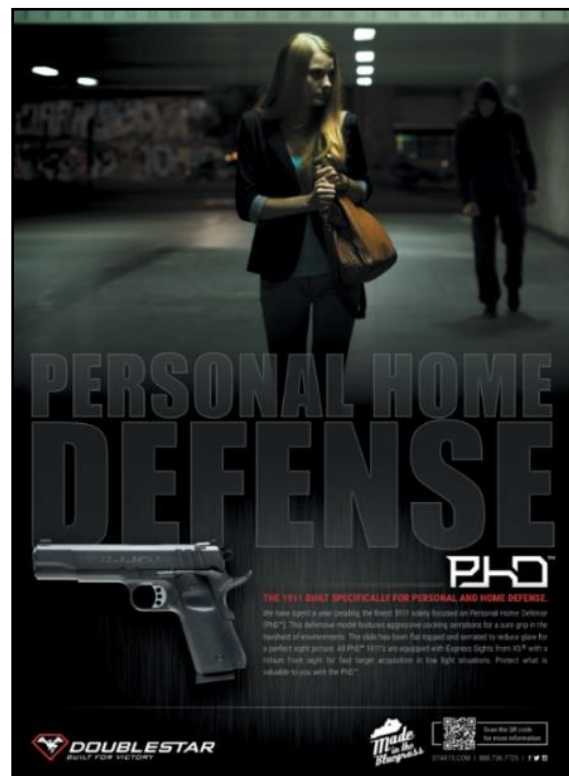
Over the past 25 years, the gun industry's advertising has focused on the misrepresentation that guns make people safer. This core misrepresentation has been bolstered by related, and similarly unfair and deceptive, claims that guns are safer than alternative protection mechanisms, and that guns can be used by anyone, anywhere for self-protection. The advertising that perpetuates these misrepresentations is both unfair and deceptive, and thus falls clearly within the scope of the FTC's investigative and enforcement powers.

A. The message that guns make people safer is unfair and deceptive.

As discussed above, the false message that guns make people safer is fundamental to the gun industry's advertising practices. While the examples discussed above focus generally on home defense, the gun industry has also preyed on fear to tailor this message specifically to women—telling them that when they are armed, they have nothing to be afraid of:⁵⁵



(Smith & Wesson Instagram post from May 28, 2020, last visited Mar. 27, 2022)



(DoubleStar ran this ad in 2016 to a national audience in *Shooting Illustrated*)

This core message is often bolstered by unsubstantiated claims that the advertised weapons have special features that make them particularly suited to self-defense. The DoubleStar advertisement, for example, claims that the gun is “built specifically for personal and home defense,” and boasts the “finest” and “perfect” features for this purpose.

This message is unfair and deceptive.

As an initial matter, none of these guns have any special features that make them more suitable than any other handgun to protect their owners. For example, none of these guns employ any technology—such as fingerprint technology or other “smart gun” innovations—designed to prevent homicides, suicides, and unintentional shootings by children, thieves, or other unauthorized users. Many of these guns also lack readily available safety features, such as internal locking mechanisms; chamber load indicators that alert a user when there is a round in the chamber; and magazine disconnect mechanisms that prevent a gun from firing when the magazine is removed. Some manufacturers and retailers have explicitly told shareholders they will not develop or sell guns with such technology, despite any potential safety benefits, because other members of the gun industry have faced significant backlash from gun lobbying groups for voicing support for these innovations.⁵⁶

The DoubleStar advertisement shown above is a good example of this refusal to adopt even the most basic safety features. The Petitioners consulted with a firearms expert who confirmed that the DoubleStar “PhD”—which stands for “Personal Home Defense”—1911 is no different in any way from other 1911 pistols currently being manufactured by at least a dozen manufacturers, including Colt, Ruger, and Springfield. According to the expert, every standard-size 1911 is built with a 5-inch barrel, uses a magazine with a 7- or 8-round capacity, weighs around 40 ounces, and is 8.5 inches long. Further, the serrated hammer that DoubleStar purportedly created for personal home defense is the exact same kind of hammer and trigger used by the standard Ruger 1911.⁵⁷

More fundamentally, there is a landslide of public health evidence demonstrating that guns make people less safe, not more safe, particularly when guns are kept in the home. Study after study confirms that a gun in the home increases each family member’s risk of becoming the victim of criminal assault and homicide, an unintentional shooting, or completed suicide. And, despite the gun industry’s targeted messaging that women and families are safer with a gun, these risks are especially acute for women facing domestic violence, for children, and for young adults.

For example, studies show that individuals who live in a home with a gun, particularly women and children, are at a substantially increased risk of committing suicide with a firearm. These studies are particularly notable when one considers that the vast majority of people who attempt suicide survive⁵⁸ and do not attempt suicide again.⁵⁹ This is not the case when firearms are in the home:

- People are at least **40 times** more likely to die if they attempt suicide with a gun instead of other common methods.⁶⁰
- Almost **53 percent** of suicide deaths involve firearms.⁶¹
- A 2020 study that followed 26 million California residents for over 12 years found that men who owned handguns committed suicide with a firearm at a rate nearly **eight times** higher than men without guns.⁶² The study also found that women who owned handguns committed suicide with a firearm at a rate **35 times** higher than women without handguns.⁶³

- The risk of suicide is up to **five times** higher for people living in a home with a gun, and up to **nine times** higher if the gun is stored loaded.⁶⁴
- For children aged 10 to 19, each 10 percent increase in household gun ownership in a state increases the youth suicide rate by **more than 25 percent**.⁶⁵

Studies also establish that having a gun in the home substantially increases the risk of becoming a victim of criminal homicide:

- A 2013 study established that the risk of homicide is substantially higher for people living in homes with a gun.⁶⁶ The same study demonstrated that, for each percentage point increase in aggregate gun ownership in a state, the firearm homicide rate increased by **0.9 percent**.⁶⁷
- According to a 2019 study, the risk of homicide is especially elevated for victims of domestic violence: women in abusive relationships living in homes with a gun face a **fivefold** increase in their risk of becoming a homicide victim.⁶⁸
- A 2022 study that followed 17.6 million California residents for over 12 years found that adults who did not own a handgun but lived with someone who did were almost **three times** more likely to be a victim of homicide than adults living in households without a handgun.⁶⁹ The same study found that cohabitants of handgun owners were **seven times** more likely than adults from gun-free homes to be killed by a spouse or partner.⁷⁰

People living in homes with a gun also face a significantly increased risk of becoming the victim of an unintentional shooting:

- Multiple studies have established that individuals in homes with a gun are **3.4 times** more likely to be the victim of unintentional shootings.⁷¹
- This risk is particularly acute for children and young adults: one study examining data from 1998 to 2002 found that the rate of unintentional gunshot fatalities among children was **16 times** higher in the 15 states with the highest levels of gun ownership than in the six states with the lowest levels.⁷²

These shocking statistics should not be interpreted as abstract risks—these tragedies happen to real people. On November 4, 2020, a Florida man reached for his handgun to investigate what he thought were sounds of an intruder.⁷³ He left his bedroom, saw a shape in the hallway, and shot and killed his wife. She was six months pregnant. The baby died as well, after being delivered early.⁷⁴ In December 2021, an Ohio man heard his home security alarm, and shot what he thought was an intruder but was, in fact, his 16-year-old daughter.⁷⁵ She was killed.

As a result of the self-protection myth consistently propagated by gun manufacturers, more than 480 American families experience the traumatic loss of unintentional murder every year.⁷⁶ Moreover, as demonstrated above, the improper storage of firearms in a family home can pose deadly risks to children and bystanders. In January 2017, a four-year-old from Texas accidentally

shot himself with his grandmother's handgun.⁷⁷ His grandmother stored the gun underneath his bed. Every day, eight children and teens are unintentionally shot in instances of family fire.⁷⁸

These risks greatly exceed any potential benefit of having a gun at the ready. Research shows that the legitimate and effective use of a gun in self- or home-defense is exceedingly rare. When public health researchers analyzed data from the National Crime Victim Survey from 2007–2011, they found little evidence that the use of a gun in self-defense reduces the likelihood of injury or property loss as compared to other protective actions.⁷⁹

Moreover, many self-reported instances of defensive gun use are likely illegal. In one study, a majority of criminal court judges found that most instances of self-reported defensive gun use were “probably illegal.”⁸⁰ The research establishes that **for every instance in which a gun in the home was used in successful self-defense, there were seven criminal assaults or homicides, four unintentional shootings, and 11 attempted or successful suicides.**⁸¹

The fact that the majority of “defensive” gun use is probably illegal is not surprising. The NRA dedicates an entire lesson in its “Basic Protection in the Home” course to “potential criminal and civil legal actions . . . subsequent to a defensive encounter” with a gun.⁸² The NRA has deemed a basic understanding of potential criminal and civil liability so important for its students that it requires that lesson be taught by “a licensed attorney or other individual certified by the state to instruct this area of law.”⁸³ The NRA even sought to create a special insurance—called “Carry Guard”—to pay the legal fees associated with defensive use of guns.⁸⁴ Although the NRA ultimately stopped offering Carry Guard after two years, it was not alone in recognizing the need for “self-defense” insurance; other packages, including those offered by the US Concealed Carry Association and Second Call Defense, cover legal fees, provide bail bonding, operate advice hotlines, and provide access to lawyers.⁸⁵

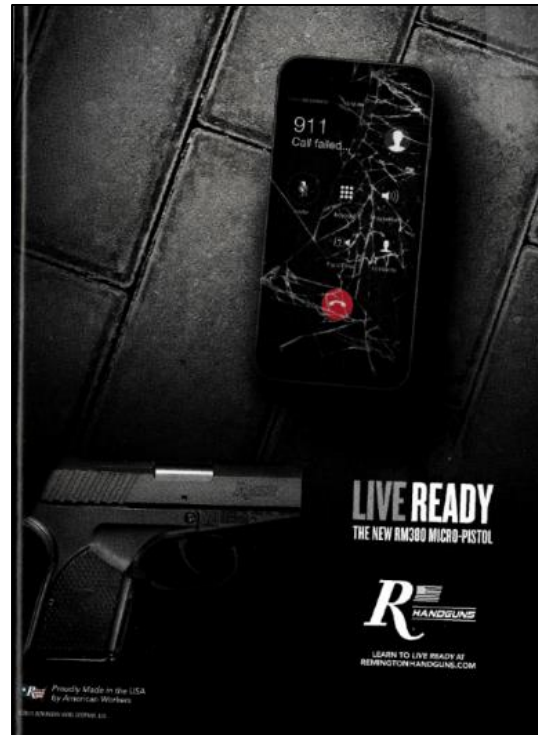
Guns in the home make people demonstrably less safe and open them up to criminal and civil liability when used as advertised. The gun industry's unchecked advertising fails to address any of these risks, thereby misleading the American public and rendering them unable to avoid the risks.

B. The message that guns are safer than alternative protection mechanisms is unfair and deceptive.

Another misleading message used to support the core falsehood that guns make people safer is that guns are safer than alternative protection mechanisms. For example, the three advertisements below tell consumers that a gun is more effective and efficient for protecting personal safety than calling 911:⁸⁶



(Anthony's Firearm Warehouse Instagram post from Sept. 23, 2020, last visited Mar. 27, 2022)



(Remington ran this advertisement in the *Concealed Carry Handguns: Self-Defense Buyer's Guide*)



(Liberty Ammunition Twitter post from Jan. 26, 2016, last visited Mar. 27, 2022)

The below advertisement from Lone Wolf Arms suggests that police can no longer protect the community and that people should engage in self-help:⁸⁷



(Lone Wolf Arms Instagram post from June 18, 2020, last visited Mar. 27, 2022)

This message is unfair and deceptive.

Using a gun in self-defense means engaging in a lethal or potentially lethal confrontation. This comes with risks that far outweigh those of de-escalating the situation. In fact, public health research demonstrates that engaging in such confrontations puts people at a relatively high risk of injury, even if they have a gun, and even if they manage to wield it effectively. In comparison, de-escalation—running away, hiding, calling the police, or pretending to cooperate—puts people at a lower risk of injury compared with defensive gun use.

The chart that follows draws on data from a 2015 study to compare the risks of injury associated with taking particular actions in response to an attacker.⁸⁸ The average risk of injury to individuals when they either (a) call the police or a guard or (b) run away or hide from their attacker is **2.2 percent** and **2.4 percent**, respectively. By contrast, the average risk of injury to individuals when they retaliate by attacking or threatening their attacker with a gun is **4.1 percent**. The de-escalation tactics of calling for help or running and hiding represent the safest courses of action. These differences are statistically significant.

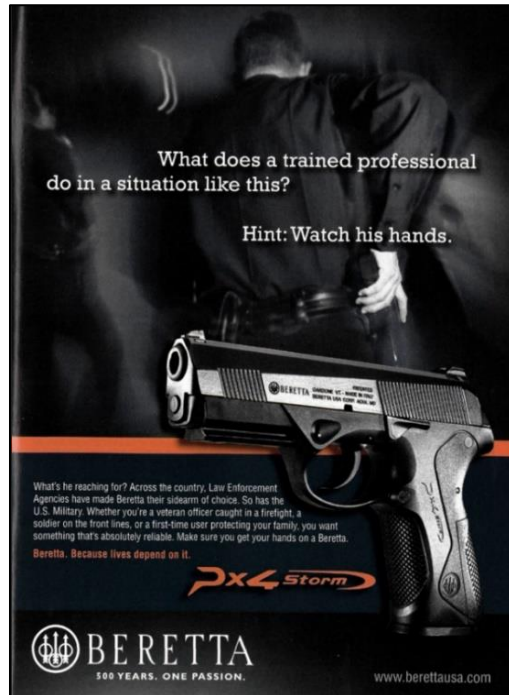
Type of Action	Injured After Taking Action
Called police or guard	2.2%
Ran or drove away (or tried), hid, locked door	2.4%
Attacked or threatened with gun	4.1%
Attacked or threatened with other weapon	5.3%
Attacked or threatened without a weapon	6.8%
Defended self or property (struggled, ducked, blocked blows, held onto property)	8.5%
Average for all actions	4.2

These data make clear that, at a minimum, people are less likely to be injured if they call the police, run away, or hide than if they escalate the situation by confronting their attacker, even with a gun.

These facts are neither surprising nor unknown to the gun industry. NRA training manuals acknowledge that personal defense situations are risky, dangerous, and undesirable.⁸⁹ Among the first lessons that students cover in the NRA’s “Basic Personal Protection in the Home” course is that guns are “a tool of last resort,” which should be “used only when deadly force is absolutely unavoidable.”⁹⁰ Instructors in that course are told to say: “The best way to win a confrontation is to avoid a confrontation.”⁹¹ Yet, advertisement after advertisement tells customers to do the exact opposite while pushing the false narrative that guns do not just make people safer, but do a better job than other precautions of keeping people safe.

C. The message that guns can make anyone, anywhere safer is unfair and deceptive.

The gun industry also perpetuates the falsehood that guns make people safer by expressly or implicitly claiming in advertisements that anyone can safely and effectively use guns, and that they can do so anywhere without restriction. For example, the advertisement that follows conveys that first-time gun users can be as effective in using a gun as trained professionals. It claims: “[w]hether you’re a veteran officer caught in a firefight, a soldier on the front lines or a *first-time user* protecting your family, you want something that’s absolutely reliable [and should m]ake sure to get your hands on a Beretta.”⁹²



(Beretta ran this ad to a national audience in 2011 in *Combat Handguns*)

Similarly, Smith & Wesson advertises one of its guns with the caption “it is that easy,” and another as fit for use by both law enforcement professionals and consumers alike.⁹³



6,037 likes
smithandwessoninc Yes, it is that easy.
The M&P 380 Shield EZ is easy to rack, easy to pack
and ideal for your conceal carry.
#mandp #easydoesit #thismandpisforyou

(Smith & Wesson Instagram post from Dec. 1, 2018,
last visited Mar. 27, 2022)



3,993 likes
smithandwessoninc #MandPMonday Whether
deployed as a backup sidearm for law enforcement
personnel, a deep concealment pistol for plain-clothes
officers or a personal protection firearm for consumers,
the M&P 45 SHIELD™ can be carried comfortably and
confidently, all day. Learn more at smith-wesson.com/
mpshield (link in bio) #mandp #experience
#confidence

(Smith & Wesson Instagram post from May 23, 2016,
last visited Mar. 27, 2022)

This message is unfair and deceptive.

Contrary to the misrepresentation that a “first-time user” can reliably and accurately use a gun in self-defense, it is extremely difficult even for trained professionals to do so. Such situations are uncertain and fluctuate quickly, and they create tremendous stress. Studies demonstrate that even police officers—who receive regular training on how to use a gun defensively—miss a majority of the time when they fire their guns. For example, one study demonstrated that, between 1998 and 2006, the average hit rate for New York Police Department (“NYPD”) officers during gunfights was only **18 percent**.⁹⁴ Further, even when there was no return fire, NYPD officers hit their targets only **30 percent** of the time.⁹⁵ The Los Angeles Police Department (“LAPD”) had similar results: in 2016, the LAPD reported that their officers hit their targets **33.4 percent** of the time.⁹⁶

The reasons for this consistently low hit rate are not limited to the difficulty of properly aiming and shooting a gun, although such difficulties are great. Studies establish that stress affects the body by inhibiting the very fine motor skills required to aim and fire a gun accurately, even for individuals who have extensive training—let alone for first-time users.⁹⁷

And, even under no stress, it often takes multiple shots to incapacitate an attacker, as NRA training manuals acknowledge.⁹⁸ Thus, the reality is directly at odds not just with the gun industry’s messaging that first-time users can pick up a gun and effectively defend themselves and their families, but also with the messaging that they can do so with only a single shot.

The advertisement below is one of many examples promoting the “one & done” capability of a gun or particular brand of ammunition, while propagating the key message that guns make people safer:⁹⁹

**CIVIL DEFENSE,
WHAT YOU NEED
TO PROTECT
WHAT'S MOST
PRECIOUS.**

Liberty Ammunition's personal defense line **Civil Defense**, provides you with the **One & Done** capability you and your family need and deserve!

- ½ Felt Recoil
- 3X Terminal Effect
- Match Grade Accuracy
- Lead Free
- Reduced Over Penetration

Available in .380 Auto, 9mm +P, 10mm, .40 S&W, .45 ACP +P, .38 Special, .357 Magnum and .45 Long Colt

LIBERTY AMMUNITION
CIVIL DEFENSE
9mm +P
4000 FPS

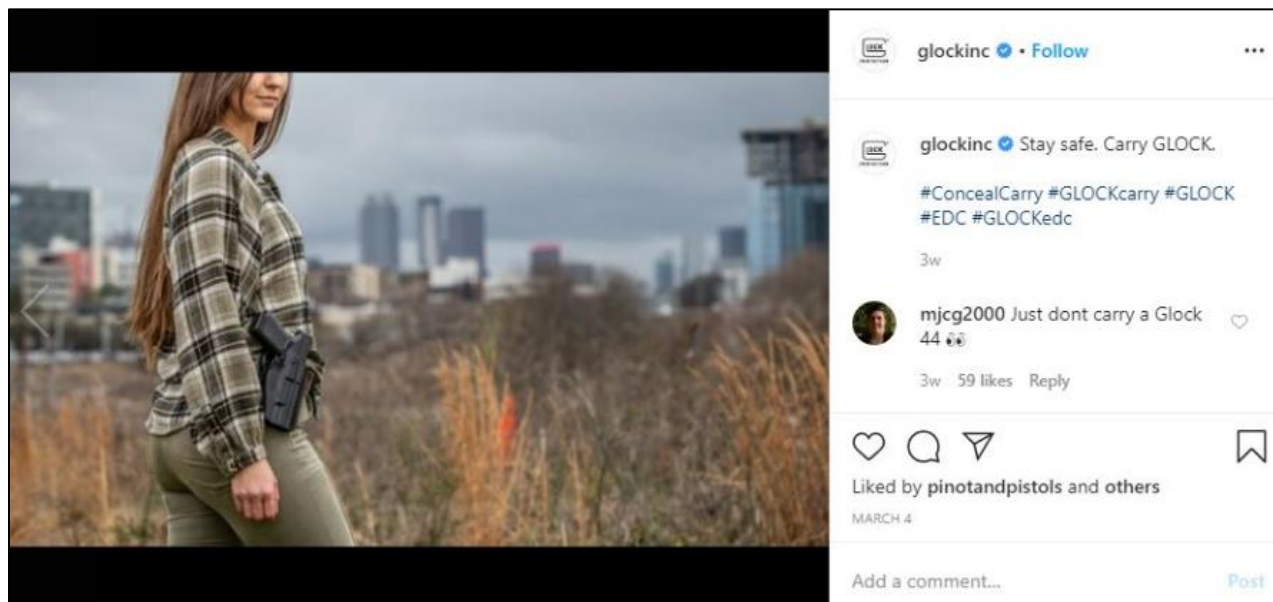
ONE
LIBERTY
AMMUNITION
& DONE
libertyammunition.com

(Liberty Ammunition ran this ad to a national audience in *Combat Handguns*)

Additionally, the two advertisements below convey that consumers who purchase a gun can and should take it with them everywhere—both in their car (where it will be more effective at protecting them than other safety features) and on their person, while, again, telling consumers that the guns are “built for victory” and will help them “stay safe”.¹⁰⁰



(DoubleStar Instagram post from Feb. 28, 2019, last visited Mar. 27, 2022)



(Glock Inc Instagram post from Mar. 4, 2020, last visited Mar. 27, 2022)

These messages are unfair and deceptive.

Most states, including those governing a vast majority of the U.S. population, require individuals to have a permit to carry a gun off their own property, and essentially all states have at least some restrictions on when and how a person can do so.¹⁰¹ These advertisements fail to provide any disclosures to that effect and thereby mislead consumers, and lead them to engage in conduct that makes them less safe.

D. The gun industry's advertising is both unfair and deceptive.

1. *The gun industry's advertising is unfair.*

As demonstrated above, the gun industry's pervasive perpetuation of its misleading messages constitutes an unfair practice. Myriad public health studies demonstrate that guns—particularly guns stored and used in the home—pose real risks of serious physical injury and death, which outweigh any alleged protective benefit that the gun may afford. As one of the studies discussed above shows, for every instance in which a gun in the home is used in successful self-defense, there are seven criminal assaults or homicides, four unintentional shootings, and 11 attempted or successful suicides.¹⁰²

Further, the gun industry's advertising is effective: after decades of hearing its misleading messages, consumers now believe them and have purchased guns in droves for the specific purpose of self- or home-defense. And gun deaths and injuries have substantially increased, not decreased. This incongruity demonstrates that the reasonable consumer, who has been bombarded with the gun industry's advertising for decades, has not been provided with complete information about the risks of owning and using firearms, and thus cannot reasonably avoid those risks.

For example, while these advertisements regularly claim that guns make people safer, they rarely—if ever—disclose the well-documented safety risks of keeping a gun in a home. They also fail to disclose that consumers who respond to attacks with firearms are more likely to be injured than consumers who avail themselves of alternative methods, like calling the authorities or otherwise de-escalating the confrontation. These advertisements also amplify potentially illegal behavior—like storing guns in demonstrably unsafe ways (e.g., loaded and unlocked on a bedside table), or suggesting that any individual has the ability to carry a gun anywhere they want.

The gun industry's advertising causes consumers substantial injury that they cannot reasonably avoid and that is not outweighed by countervailing benefits. These advertising practices are thus unfair.

2. *The gun industry's advertising is deceptive.*

The gun industry's advertising is likewise deceptive. Both expressly and implicitly, the gun industry's advertisements consistently claim that guns make people safer, that they are more effective than other means of protection, and that guns can be carried and used effectively by anyone, anywhere. These are material misrepresentations. In addition to the fact that these misrepresentations have demonstrably impacted consumer behavior—indeed, people increasingly believe the falsehood that guns make them safer, and increasingly purchase them for self-defense—these misrepresentations concern the safety and efficacy of guns, and are therefore

presumptively material. They are also likely to mislead reasonable consumers—and, again, have been demonstrably successful in doing so. As discussed in Part IV.A–C, all credible scientific research, as well as the NRA’s own training materials, confirms that guns do not make people safer, are not more effective than alternative means of self-defense, and cannot be used safely and effectively by anyone, anywhere. Yet people continue buying guns precisely because the gun industry’s advertising has convinced them of the opposite.

E. The FTC has previously brought enforcement actions based on similarly unfair and deceptive advertisements.

The FTC has the broad authority to investigate and regulate the gun industry for its consistent violations of Section 5 of the FTC Act, as it has done in analogous contexts. For example, the FTC has previously taken action against:

- The Tobacco Industry. As the health and safety risks of tobacco became increasingly clear in the mid-twentieth century, the FTC investigated the industry’s advertising practices—particularly its claims related to the health and safety of its products and its targeted advertising towards children. The investigation led to multiple enforcement actions against key industry players¹⁰³ and, ultimately, to significant regulation of the industry to ensure that its advertisements accurately characterized the risks of tobacco.
- The Cannabidiol Industry. In March 2021, the FTC entered orders against six sellers of cannabidiol (“CBD”) products.¹⁰⁴ The FTC’s underlying complaints had alleged that the CBD sellers made unsubstantiated claims in their advertisements that CBD products can cure certain ailments and diseases, prevent cognitive decline or pain, act as effectively as other painkillers, and are generally safe for consumers.¹⁰⁵ The FTC found that these claims were not based on any reliable studies or scientific literature and were thus “false or misleading, or were not substantiated at the time the representations were made.”¹⁰⁶
- The E-Cigarette Industry. In May 2018, the FTC issued 13 warning letters under Section 5 to various manufacturers, distributors, and retailers of e-cigarettes, whose advertising and labelling practices appeared designed to target children.¹⁰⁷ Further, in late 2019 and early 2021, the FTC issued orders to multiple e-cigarette manufacturers seeking information on their sales, advertising, and promotional expenditures in order to investigate the e-cigarette market and ensure that manufacturers accurately convey the public health risks of their products to consumers.¹⁰⁸
- Various Industries in Response to COVID-19. The FTC has also taken action against companies in a variety of industries that have engaged in unfair or deceptive practices preying on consumers’ fears and vulnerabilities stemming from the COVID-19 pandemic.¹⁰⁹ In particular, the FTC has sent numerous warning letters to companies that had made unsubstantiated claims that their products can treat or prevent COVID-19.¹¹⁰

V. The Gun Industry's Advertising Is Deadly, and Becoming More So.

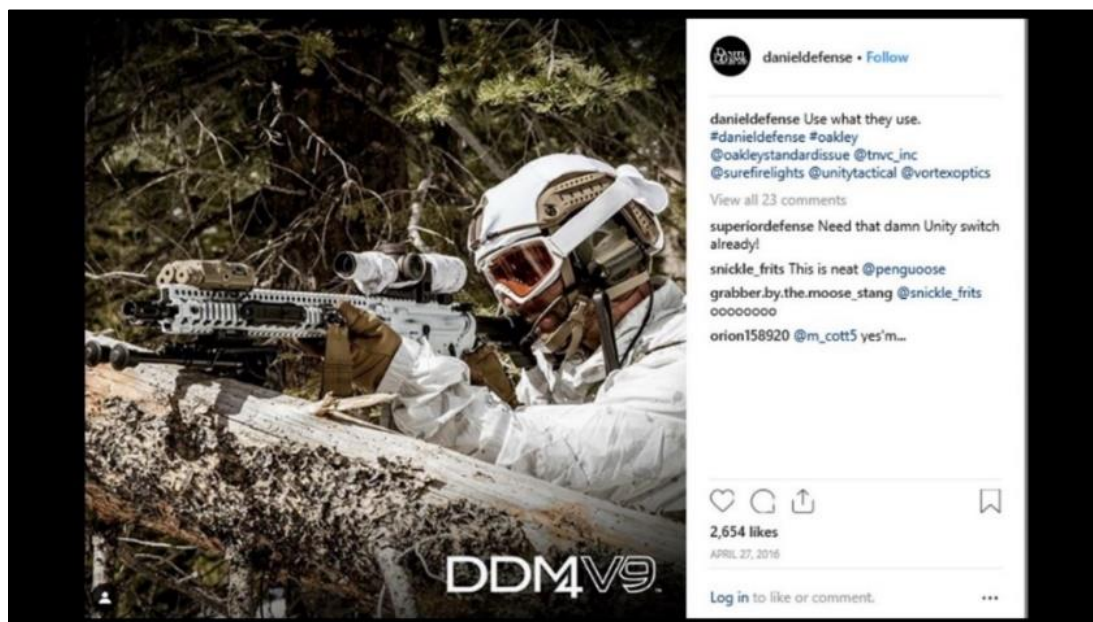
The gun industry has been freely perpetuating its unfair and deceptive messages for decades. The results of this campaign are devastating:

- **More than 120 Americans are killed each day with guns, and nearly 45,000 are killed with guns each year.**¹¹¹
- **Gun injuries are a leading cause of death in the United States.**¹¹²
- **Gun violence has surpassed car accidents as a leading cause of death for Americans between the ages of 15 and 29.**¹¹³
- **Almost a quarter of the guns purchased in 2020 were used in a crime within six months of purchase.**¹¹⁴

Moreover, the gun industry has begun pushing even more dangerous themes in its advertisements to target and radicalize certain consumers, convincing them that they need expensive, military-grade weaponry for everyday use.

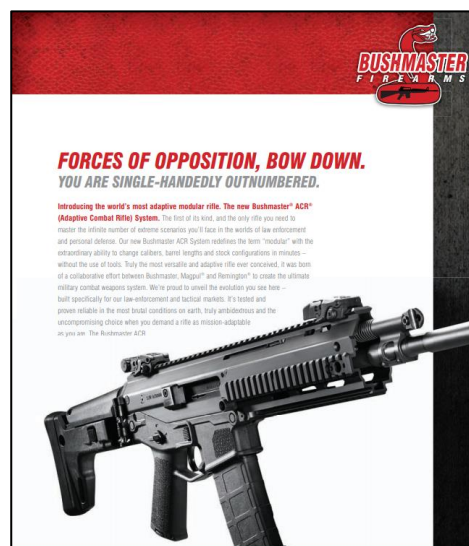
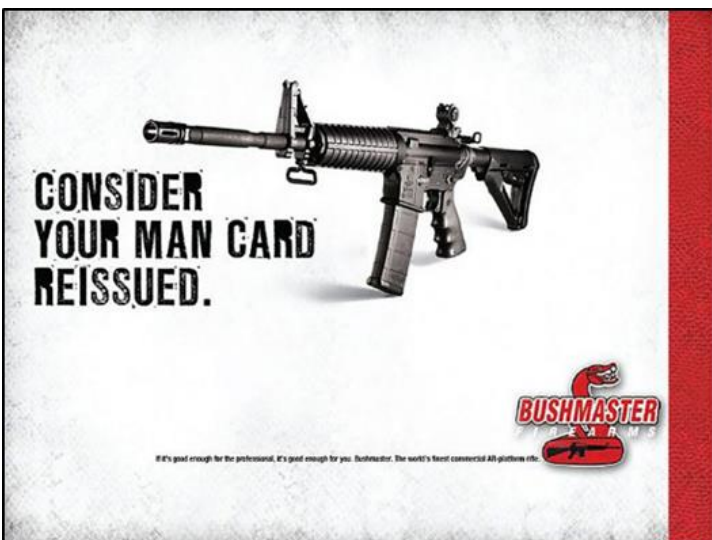
In mid-2020, Brady and Everytown Law filed a petition with the FTC that described how Smith & Wesson brands its consumer guns as “Military and Law Enforcement” weapons and otherwise targets paramilitary civilian groups using the “halo effect.”¹¹⁵ Several other manufacturers are also spreading this militant message.

Daniel Defense told its consumers to “use what they use,” referring to soldiers in combat:¹¹⁶



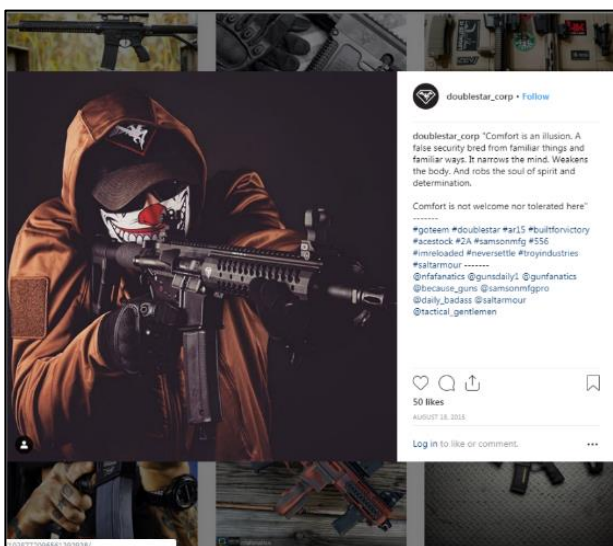
(Daniel Defense Instagram post from April 27, 2016, last visited Mar. 27, 2022)

Bushmaster told radicalized young men—including the Sandy Hook shooter—that using an assault rifle is the only way to be a man, and advertised its weapons as “the ultimate military combat weapons system” that would make “forces of opposition, bow down”.¹¹⁷



(Bushmaster ran this advertisement to a national audience in *Maxim*)

DoubleStar posted an action shot of a shooter in a clown mask, showed young users how to create Fortnite-branded assault rifles to make first-person shooter fantasies a reality, and told its consumers that “violence is the way” and that “half the battle . . . is extreme violence”.¹¹⁸



(DoubleStar Instagram post from Aug. 18, 2015, last visited Mar. 27, 2022)



(DoubleStar Instagram post from Sept. 16, 2018, last visited Mar. 27, 2022)



(DoubleStar Instagram post from May 13, 2020, last visited Mar. 27, 2022)[†]

Other gun manufacturers and distributors use similar rhetoric to radicalize consumers and increase profits. And it doesn't stop there. The gun industry has preyed on people's fears related to COVID-19,¹¹⁹ encouraged the use of weapons at racial justice protests,¹²⁰ and characterized gun owners as an independent army that should "stand up and resist the growing tyranny".¹²¹



(Armalite Instagram post from Mar. 25, 2020, last visited Mar. 27, 2022)

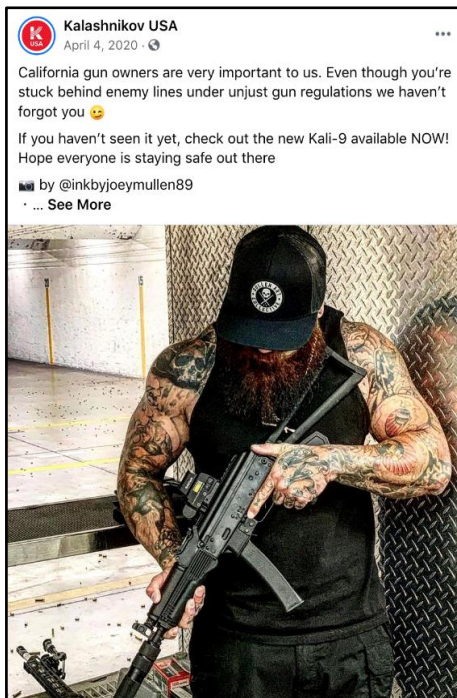


(Georgia Arms Instagram post from Oct. 88, 2020, last visited Mar. 27, 2022)

[†] Although this specific advertisement is for blades, the radical rhetoric epitomizes the themes that pervade DoubleStar's advertising strategy.



(Impact Arms Instagram post from Aug. 3, 2020, last visited Mar. 27, 2022)

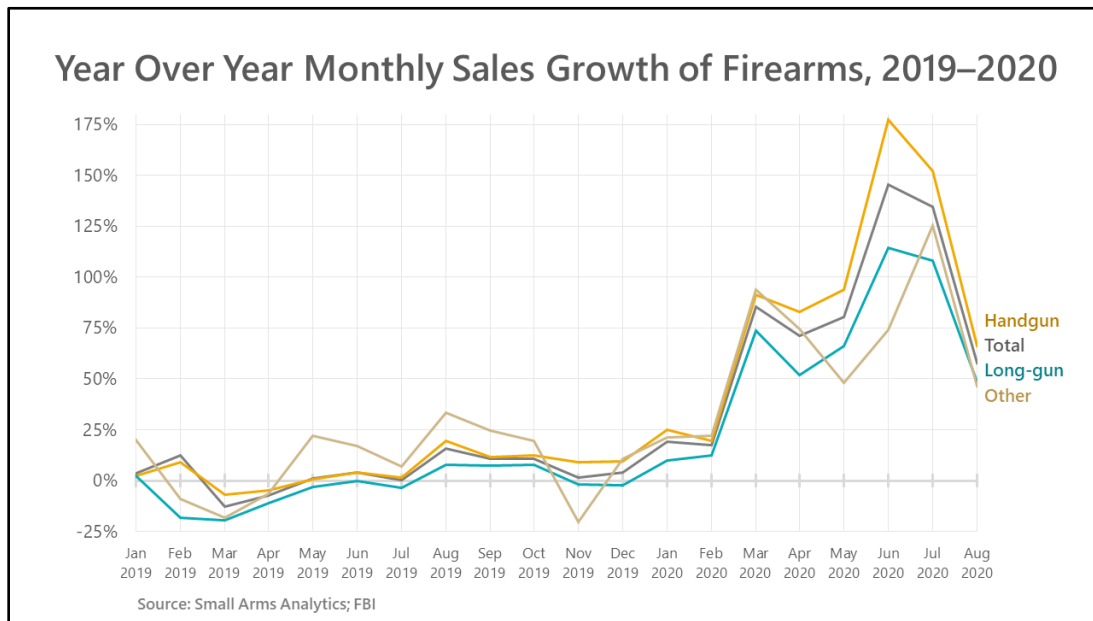


(Kalashnikov USA Instagram post from Apr. 4, 2020, last visited Mar. 27, 2022)

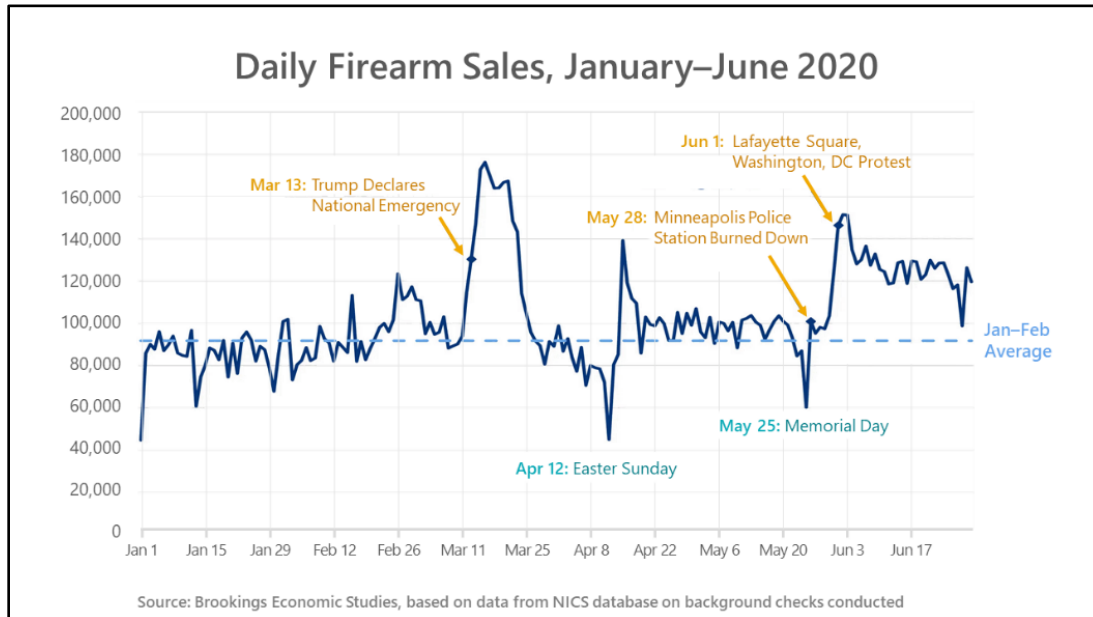


(AR500 Armour Twitter post from Oct. 12, 2020, last visited on Mar. 27, 2022)

Unsurprisingly, 2020 was a banner year for gun sales across all metrics.¹²² The chart below shows gun sales from 2019 (already at a high relative to years past) through mid-2020:¹²³



The chart below examines sales from January to June 2020, including key dates during that time period that impacted sales:¹²⁴



In total, the gun industry sold roughly 20.7 million guns in 2020, an increase of nearly 64 percent over 2019.¹²⁵ In December alone, the number of background checks for firearms hit 3.9 million—a record at the time, which soon fell below the 4.3 and 4.6 million background checks in January and March 2021, respectively.¹²⁶

As the gun industry's sales and profits broke records, so did the resulting gun violence. Mass shootings surged by nearly 50 percent in 2020.¹²⁷ Many states reported unprecedented levels of gun-related harms, with some of the country's largest cities reporting a 30 percent spike in homicides.¹²⁸ Nearly 20,000 Americans were killed in gun homicides, over 24,000 took their own lives with guns, and tens of thousands more were injured with guns.¹²⁹ States with more background checks—signifying more purchases of new guns—saw greater increases in new guns recovered in and traced to crimes.¹³⁰

2021 brought more of the same. There were 693 mass shootings¹³¹ in 2021, compared with 611 in 2020 and 417 in 2019.¹³² These shootings resulted in 702 deaths and 2,844 injuries.¹³³ The victims included a nine-year-old boy who died in his mother's arms in a courtyard, a police officer and father of seven who died in a grocery store after responding to emergency calls, and a grandmother who was murdered in the spa where she worked to provide for her family.¹³⁴ Over 24,000 Americans took their lives in moments of desperation made irreversible by the finality of a gunshot.¹³⁵ About 40,500 more were injured by a gunshot, often leading to lifelong physical and psychological trauma.¹³⁶

VI. The Gun Industry Requires Regulation.

The egregious advertising shown in this Petition—and its deadly repercussions—makes clear that the gun industry has no plans to stop perpetuating its false message of safety so long as it results in more profits. After years of inaction from the FTC, the gun industry has come to believe it is above the law.

When the New Jersey Attorney General served Smith & Wesson with a subpoena seeking “evidence of consumer fraud relating to advertising” as part of a lawful investigation into its advertising practices, Smith & Wesson not only refused to comply, but also sued the Attorney General in federal court.¹³⁷ Smith & Wesson alleged that the subpoena sought to “suppress and punish” the company's “lawful speech regarding gun ownership,” and accused the Attorney General of having an “anti-Second Amendment agenda.”¹³⁸ Smith & Wesson also argued that, through the creation of the PLCAA, Congress sought to prevent not only all lawsuits against the gun industry, but also “all manner of attacks on the firearms industry through the use of legal process.”¹³⁹ In other words, Smith & Wesson has taken the position that it is above the law, and exempt even from investigation by any enforcement agency. This is an impunity that no other industry would dare to assert, particularly in response to a standard administrative subpoena.

Petitioners expect that stakeholders of the gun industry will seek to make similar First Amendment challenges to any FTC investigation into their practices. Any such challenges would be meritless for at least three reasons. *First*, an administrative subpoena does not “regulate” speech because it seeks only the production of documents through a legal process. *See SEC v. McGoff*, 647 F.2d 185, 187 (D.C. Cir. 1981). *Second*, an administrative subpoena would seek information regarding potentially fraudulent statements, deceptions, and misrepresentations—none of which are protected by the First Amendment. *Finally*, an administrative subpoena does not deny or restrict access to any particular forum based on content. In any event, the potential for industry objections should not deter the FTC from fulfilling its mandate to protect consumers. Any contrary

conclusion would render the FTC powerless to investigate and regulate the unfair and deceptive practices that it is charged with eliminating.[‡]

The gun industry has also used the tactical measure of filing for bankruptcy to avoid accountability. In 2020, just eight months after the Supreme Court of Connecticut held that wrongful death lawsuits filed by the families of victims of the Sandy Hook massacre could proceed against Remington under an exception to the PLCAA, Remington triggered an automatic stay of the litigation by filing for bankruptcy¹⁴⁰—notwithstanding the fact that 2020 and 2021 were banner years for gun sales. Similarly, in January 2020, the NRA filed for bankruptcy just five months after the New York Attorney General filed a lawsuit seeking to dissolve the organization for violations of state law.¹⁴¹ The Bankruptcy Court for the Northern District of Texas dismissed the NRA’s bankruptcy petition because it “was not filed in good faith.”¹⁴² The court held that “the NRA’s purpose in filing bankruptcy is less like a traditional bankruptcy case in which a debtor is faced with financial difficulties or a judgment that it cannot satisfy and more like cases in which courts have found bankruptcy was filed to gain an unfair advantage in litigation or to avoid a regulatory scheme.”¹⁴³

VII. Conclusion

The FTC has a responsibility to act now, as it has done to stop other industries’ harmful advertising practices. Like the tobacco industry, the gun industry has been able to successfully manipulate the American public into believing that its lethal product is safe and will make them safer through decades of unfair and deceptive advertising. And again, it is the FTC that must enforce consumer protection and advertising regulations by holding the gun industry accountable, and requiring, at a minimum, disclosures that address safety, legality, and other risks associated with the possession and use of guns.

By continuing to allow the gun industry’s advertising practices to go unchecked, the FTC is signaling to the industry that it is above the law. The FTC must exercise its power to enforce consumer protection laws before the industry can inflict even more harm than it already has. On behalf of all of the American families and communities that have lost loved ones to and lived in fear of gun violence, Petitioners respectfully ask the FTC to exercise its power and fulfill its mandate to protect the American public.

[‡] As with other points in this Petition, Petitioners are prepared to present supplemental information to the FTC concerning any potential First Amendment challenges.

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- ¹ A student arrested in a school shooting is released. His family says he was bullied, NPR (Oct. 8, 2021), <https://www.npr.org/2021/10/08/1044340122/mansfield-arlington-texas-timberview-high-school-shooting-released>.
- ² Ramon Antonio Vargas, *4 men shot at Gen. Taylor and Annunciation streets while doing drainage work*, NOLA.COM (Oct. 6, 2021), https://www.nola.com/news/crime_police/article_501e3532-26d4-11ec-8836-5726f9854e5b.html.
- ³ Harry Harris, *Man dies after Oakland drive-by shooting*, EAST BAY TIMES (Oct. 6, 2021), <https://www.eastbaytimes.com/2021/10/06/drive-by-shooting-in-oakland-leaves-man-in-grave-condition>.
- ⁴ Sarah Hammond, *Portsmouth police say child accidentally shot self in Midtown area*, 13NewsNow (Oct. 7, 2021), <https://www.13newsnow.com/article/news/crime/child-shot-portsmouth-harvard-road/291-f64c033d-8458-4a50-81d6-64d597290a47>.
- ⁵ WONDER Online Database, CTRS. DISEASE CONTROL (2020), <https://wonder.cdc.gov/ucd-icd10.html> (Dataset: Group Results by “Injury Mechanism & All Other Leading Causes”; Year/Month: “2020”); see also Jennifer Mascia, *It’s Official: Gun Deaths Hit an All-Time High in 2020*, THE TRACE (Jan. 7, 2022), <https://www.thetrace.org/2022/01/gun-violence-homicide-suicide-cdc-data-2020>.
- ⁶ WONDER Online Database, CTRS. DISEASE CONTROL (2020), <https://wonder.cdc.gov/ucd-icd10.html> (Dataset: Group by “Injury Mechanism & All other Leading Causes Multiple Cause of Death, 1999-2020”; Five-Year Age Groups: “5-9 years”, “10-14 years”, & “15-19 years”); Rebecca Cunningham, *The Facts on the US Children and Teens Killed by Firearms*, MICH. HEALTH LAB (Aug. 6, 2019), <https://labblog.uofmhealth.org/lab-report/facts-on-us-children-and-teens-killed-by-firearms>.
- ⁷ Makena Kelly, *Congress will investigate claims that Instagram harms teens*, THE VERGE (Sept. 15, 2021), <https://www.theverge.com/2021/9/15/22675802/facebook-instagram-teens-harm-blumenthal-blackburn-markey-kids>.
- ⁸ Cat Zakrzewski, *Coalition of state attorneys general launches probe into whether TikTok harms children and teens*, WASH. POST. (Mar. 2, 2022), <https://www.washingtonpost.com/technology/2022/03/02/state-attorneys-general-tiktok>.
- ⁹ *FTC Issues Orders to Nine Social Media and Video Streaming Services Seeking Data About How They Collect, Use, and Present Information*, FED. TRADE COMM’N (Dec. 14, 2020), <https://www.ftc.gov/news-events/news/press-releases/2020/12/ftc-issues-orders-nine-social-media-video-streaming-services-seeking-data-about-how-they-collect-use>.
- ¹⁰ 15 U.S.C. § 45(a)(1).
- ¹¹ *Id.* § 45(n).
- ¹² *FTC Policy Statement on Unfairness*, FED. TRADE COMM’N (Dec. 17, 1980), <https://www.ftc.gov/legal-library/browse/ftc-policy-statement-unfairness>.
- ¹³ *Id.*
- ¹⁴ *Id.*; see also *In the Matter of International Harvester Co.*, 1984 WL 565290, at *97 (1984).
- ¹⁵ *In the Matter of International Harvester Co.*, 1984 WL 565290, at *90 n. 58.
- ¹⁶ *FTC Policy Statement on Unfairness*, *supra* note 12, at 1074.
- ¹⁷ *In the Matter of International Harvester*, 1984 WL 565290, at *90-*91.
- ¹⁸ *Letter from Fed. Trade Comm’n Chairman James C. Miller III to Hon. John D. Dingell*, at 1-2 (Oct. 14, 1983) (appended to the majority opinion in *In re Cliffdale Associates*, 103 F.T.C. 110 (1984)).
- ¹⁹ *Id.* at 5.
- ²⁰ *Id.*
- ²¹ *In re Figgie Int’l, Inc.*, 107 F.T.C. 313, 1986 WL 722111, at *58-*61 (1986).

22 See *infra* notes 58-81.

23 See *infra* notes 58-81.

24 See, e.g., Charles C. Branas et al., *Investigating the link between gun possession and gun assault*, 99 AM. J. OF PUB. HEALTH 2034, 2037 (Nov. 2009).

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