

May 5, 2026

Christopher Mufarrige
 Director, Bureau of Consumer Protection
 Federal Trade Commission

Via online submission

Re: Request to Investigate the Dolphin Research Center for Apparent Violations of the Federal Trade Commission Act.

Dear Director Mufarrige,

I am writing on behalf of PETA to request that the Federal Trade Commission (FTC) investigate and take appropriate enforcement action against the Dolphin Research Center (DRC), located at 58901 Overseas Highway, Grassy Key, Florida 33050, for its apparent false and misleading public representations that it is providing a “sanctuary” for the dolphins and other animals at its facility.

On its website and in its marketing, the DRC represents itself to be a marine mammal education and research facility “[p]roviding [s]anctuary and a [f]orever [h]ome since 1984.” As detailed in the attached appendix, both the explicit representations made in these advertisements, as well as the implicit impression that the facility is an animal sanctuary, are materially false and likely to mislead consumers in apparent violation of the Federal Trade Commission Act (FTC Act).

Consumer opinion on facilities holding marine mammals in captivity is changing, and the FTC itself has acknowledged the importance that a company’s claim of humane treatment of animals can have on their purchasing decisions. The majority of the marine mammals at the DRC’s facility were captively bred and born there, not rescued as the representations of providing “sanctuary” and “a forever home” implies within the general public understanding of those terms and phrases.

Additionally, animal sanctuaries are facilities that provide lifetime care for animals who were abused, neglected, or otherwise are unable to be released back into the wild. These facilities are non-exploitative and commit to never breeding animals or using them for direct contact interactions with the public. In addition to captively breeding the dolphins at its facility, the DRC offers an extensive list of paid interactive animal encounters and swim-with-dolphin programming. This facility is not an animal sanctuary and cannot lawfully represent itself as such. In fact, it is well-recognized that there are actually no marine mammal sanctuaries in North America—further making it impossible for the DRC to be one.

Accordingly, PETA respectfully requests that the FTC investigate the DRC for its apparently false and misleading marketing practices and hold it fully accountable for any and all violations found.

PEOPLE FOR
 THE ETHICAL
 TREATMENT
 OF ANIMALS
 FOUNDATION

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 202-483-PETA

Los Angeles
 2624 W. Sunset Blvd.
 Los Angeles, CA 90026
 323-644-PETA

Norfolk
 501 Front St.
 Norfolk, VA 23510
 757-622-PETA

PETA FOUNDATION IS AN OPERATING
 NAME OF THE FOUNDATION TO
 SUPPORT ANIMAL PROTECTION.

ENTITIES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Switzerland
- PETA Netherlands
- PETA Foundation (U.K.)

Very truly yours,



Emily Lively
Counsel and Marine Mammal Lead
Captive Animal Law Enforcement



Appendix

The Federal Trade Commission Act (FTC Act) declares unfair or deceptive practices unlawful.¹ A representation, omission, or practice is deceptive if it (1) is likely to mislead consumers and (2) is considered material.² The Act’s “ban against false and misleading advertisements and representations applies to that which is suggested as well as that which is asserted.”³ It has long been established that “words and sentences may be literally and technically true and yet framed in such a setting as to mislead or deceive.”⁴ Indeed, “[a] deceptive impression may be created by implication and innuendo without affirmative misrepresentation or misstating a single fact.”⁵ The FTC’s ultimate concern is the message conveyed or the implication created in the mind of the ordinary purchaser.⁶ As long as an advertisement “reasonably can be interpreted in a misleading way,” it is “deceptive, even though other, non-misleading interpretations may be equally possible.”⁷

The Dolphin Research Center (DRC) markets itself as a nonprofit marine mammal education and research center, advertising that it is “[p]roviding [s]anctuary and a [f]orever [h]ome” for dolphins and other marine mammals.⁸ These advertisements represent to the public that marine mammals in need are receiving “sanctuary” and a “forever home” at this facility. These are common terms that the general public ordinarily hears in the context of rescue animals who are taken in by a facility or an individual for rehabilitation or lifetime care. As discussed further below, however, only a small minority of the DRC’s animal population are rescues. The vast majority of the marine mammals at this facility are captively bred there to perform in the DRC’s various swim-with-dolphin programs and are not receiving “sanctuary” and/or a “forever home” within the general consumer understanding of these terms.

Additionally, these statements as a whole heavily imply to the average consumer that the DRC is an animal sanctuary. Animal sanctuaries, however, adhere to strict non-exploitative welfare standards, including commitments not to breed animals or allow direct contact between animals and the public—both of which occur at the DRC. As such, the DRC cannot represent itself as a marine mammal sanctuary, supported further by the fact that there are currently no sanctuaries for marine mammals in North America.⁹

For these reasons, discussed in detail below, the DRC’s explicit assertions that it provides “sanctuary and a forever home” for marine mammals—as well as the implicit impression that the facility is an animal sanctuary—are materially false and likely to mislead consumers into believing that they are

¹ 15 U.S.C. § 45(a)(1).

² FTC Policy Statement on Deception § I (Oct. 14, 1983), *appended to Cliffdale Assocs., Inc.*, 103 F.T.C. 110, 174 (1984). [hereinafter, FTC Policy Stmt.].

³ *In the matter of the Raymond Lee Org., Inc., et al.*, 92 F.T.C. 464, 1978 WL 206103, at *79 (Nov. 1, 1978).

⁴ *In the Matter of Horizon Corp.*, 97 F.T.C. 464, 1981 WL 389410, at *265 n.6 (May 15, 1981) (quoting *Bockenstette v. FTC*, 134 F.2d 369, 371 (10th Cir. 1943)).

⁵ *In the Matter of MacMillan, Inc., et al.*, 96 F.T.C. 208, 1980 WL 338975, at *66 (Sept. 4, 1980).

⁶ *F.T.C. v. Sterling Drug, Inc.*, 317 F.2d 669, 674 (2d Cir. 1963).

⁷ *In the Matter of Telebrands Corp., TV Sav., L.L.C. & Ajit Khubani Respondents*, No. 9313, 2004 WL 3155567, at *32 (MSNET Sept. 15, 2004).

⁸ See e.g., *Dolphin Research Center*, <https://dolphins.org/> (front and center on website’s homepage); *Our Mission*, DOLPHIN RSCH. CTR., https://dolphins.org/our_mission (noted in its mission and several other places on its website); *Dolphin Research Center*, ENJOY FLA., <https://www.enjoyflorida.com/attractions/dolphin-research-center/> (example of the claims included in external marketing).

⁹ Mark J. Palmer, *Existing and Pending Seaside Sanctuaries*, INT. MARINE MAMMAL PROJECT (Sept. 06, 2023), <https://savedolphins.eii.org/news/seaside-sanctuaries-for-captive-orcas>.

visiting a true marine mammal sanctuary, not a dolphinarium. In fact, consumer complaints and reviews of the DRC reflect that, not only does this marketing have the capacity to mislead consumers, but it actually has.

Accordingly, these representations made by the DRC amount to a deceptive practice within the meaning of the FTC Act. PETA, therefore, respectfully requests that the FTC investigate the DRC and hold it accountable for any and all violations of federal law.

I. The DRC’s representations that it provides animals “[s]anctuary and a [f]orever [h]ome” is likely to mislead consumers into believing they are visiting a true marine mammal sanctuary.

Actual deception is not required to establish a violation.¹⁰ The issue is whether the representation has the tendency or capacity to mislead consumers.¹¹ Claims may be either express or implied.¹² Express claims are those that “directly state the representation at issue.”¹³ Implied claims are all those that are not considered to be express and can range from “virtually synonymous with an express claim through language that literally says one thing but strongly suggests another to language which relatively few consumers would interpret as making a particular representation.”¹⁴

Whether advertising “is false or misleading is determined based on the objective ‘reasonable consumer’ standard.”¹⁵ The complainant must establish that “consumers, acting reasonably under the circumstances, would likely interpret [its] message . . . to have conveyed the alleged claims.”¹⁶ To be considered a reasonable interpretation, it does not need to be the only one.¹⁷ Advertisements may convey multiple representations that “may be amenable to more than one reasonable interpretation.”¹⁸ “[T]he important criterion is the net impression that it is likely to make on the general populace.”¹⁹

The law does not view the general public as experts.²⁰ Rather, it categorizes “the vast multitude” as including “the ignorant, the unthinking and the credulous, who, in making purchase, do not stop to analyze, but are governed by appearances and general impressions.”²¹ Consumers generally do not “carefully study or weigh each word in an advertisement.”²²

¹⁰ *Raymond Lee Org., Inc.*, 1978 WL 206103, at *79.

¹¹ *Id.*; see also FTC Policy Stmt § II at 2.

¹² *Telebrands Corp.*, 2004 WL 3155567, at *31.

¹³ *Id.* at 32.

¹⁴ *Id.*

¹⁵ *Ortega v. Natural Balance, Inc.*, 300 F.R.D. 422, 428-29 (C.D. Cal. 2014).

¹⁶ *Telebrands Corp.*, 2004 WL 3155567, at *31; see also FTC Policy Smt. § III at 2 (“The test is whether the consumer’s interpretation or reaction is reasonable.”).

¹⁷ FTC Policy Stmt. § III at 3; see also *Raymond Lee Org., Inc.*, 1978 WL 206103, at *79 (“Where advertisements and representations convey more than one meaning, one of which is false, the respondent is liable for the misleading variety.”).

¹⁸ *Telebrands Corp.*, 2004 WL 3155567, at *32; see also *Sterling Drug*, 317 F.2d at 675 (describing two methods of employing true statements to convey a false impression, including “the ambiguity, where the statement in context has two or more commonly understood meanings, one of which is deceptive.”).

¹⁹ *In the Matter of Grolier, Inc., et al.*, 91 F.T.C. 315, 1978 WL 206098, at *81 (Mar. 13, 1978), *remanded on other grounds*, 615 F.2d 1215 (9th Cir. 1980), *modified on other grounds*, 98 F.T.C. 882 (1981), *reissued*, 99 F.T.C. 379 (1982).

²⁰ *P. Lorillard Co. v. Fed. Trade Comm’n*, 186 F.2d 52, 58 (4th Cir. 1950).

²¹ *Id.*

²² *Sterling Drug*, 317 F.2d at 674 (quoting *Aronberg v. Fed. Trade Comm’n*, 132 F.2d 165, 167 (7th Cir. 1942)).

A. *The DRC's use of the terms "sanctuary" and "forever home" as applied to its practices is inconsistent with the general public's understanding of these terms.*

As stated, the DRC advertises that it provides dolphins and other marine mammals "sanctuary and a forever home." This language explicitly represents that the marine mammals at this facility receive "sanctuary," which is defined in Merriam-Webster as "a place of refuge and protection,"²³ and a "forever home," which is defined in the animal context as a "home that an animal goes to live in when [they] are adopted..."²⁴ These are common terms that the ordinary consumer is likely to associate with rescue animals, who are either in need of rehabilitation or lifetime care.

When the public reads or hears news reports about exotic animals receiving sanctuary or being transferred to sanctuaries, these stories center around neglected or abused animals who are being rescued from the entertainment industry, research facilities, private ownership, and other similar circumstances.²⁵ Similarly, the term "forever home" is most often presented to the average person by shelters and animal rescues in connection with dogs and other animal companions who have been neglected, abused, or abandoned and are in need of a loving home.²⁶ As such, an ordinary reasonable consumer, when confronted with advertisements claiming to "provid[e] sanctuary and a forever home" for animals, are most likely to believe they are visiting and supporting a business primarily or exclusively engaged in the rescue of animals.

By the DRC's own admission, over half of the animals at its facility were born there through captive breeding.²⁷ Only a small minority are rescue animals.²⁸ This distinction is not noted within their marketing and would require additional examination on the part of the consumer. As the court in *Sterling Drug* recognized, the vast majority of ordinary consumers are not likely to conduct extensive research

²³ *Sanctuary*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/sanctuary>.

²⁴ *Forever Home*, OXFORD ADV. LEARNER'S DICTIONARY, <https://www.oxfordlearnersdictionaries.com/us/definition/english/forever-home>.

²⁵ E.g., Bob Shaw, *Rescued 'Tiger King' animals taken to sanctuary in Minnesota*, PIONEER PRESS (May 24, 2021), <https://www.twincities.com/2021/05/24/rescued-tiger-king-animals-taken-to-sanctuary-in-minnesota/>; Matilda Preisendorf, *5 Siegfried & Roy Secret Garden Big Cats Transferred To Wylie Animal Sanctuary*, LOCAL PROFILE (July 13, 2023), <https://www.localprofile.com/news/siegfried-roy-big-cats-wylie-7506879>; David Grimm, *Former research chimps will move to sanctuary, after NIH reverses course*, SCIENCE (Nov. 8, 2024), <https://www.science.org/content/article/former-research-chimps-will-move-sanctuary-after-nih-reverses-course>; *Rescued Lions from Quebec Roadside Zoo Transported From Aspen Valley To Sanctuary In The States*, MUSKOKA411 (Oct. 20, 2025), <https://muskoka411.com/rescued-lions-from-quebec-roadside-zoo-transported-from-aspen-valley-to-sanctuary-in-the-states/>.

²⁶ E.g., WWAY News, *Pet Pals: Sweet and playful Terrier mix looking for forever home*, WWAY3 (Mar. 17, 2026), <https://www.wwaytv3.com/pet-pals-sweet-and-playful-terrier-mix-looking-for-forever-home/>; Boston 25 News Staff, *Furever Friday: Ellie looking for a forever home*, BOSTON 25 NEWS (Feb. 27, 2026), <https://www.boston25news.com/news/local/furever-friday-ellie-looking-forever-home/XM2QG2LSANGP7BBC5DI72HNDPA/>; Dylan Groves, *Featured Pet of The Day – Aussie looking for Forever Home*, OZARK RADIO NEWS (Mar. 10, 2026), <https://www.ozarkradionews.com/featured-pet/featured-pet-of-the-day-aussie-looking-for-forever-home>; *This adorable dog is looking for his forever home! Pet of the Week*, GOODDAY SACRAMENTO (Mar. 17, 2026), <https://www.cbsnews.com/gooddaysacramento/video/this-adorable-dog-is-looking-for-his-forever-home-pet-of-the-week-17/>.

²⁷ *Our History*, DOLPHIN RSCH. CTR., https://dolphins.org/our_history; see also *Our Animal Family*, DOLPHIN RSCH. CTR., https://dolphins.org/our_animal_family?cat=1&id=51#animal_facts (animal bios confirm at least 20 of the 28 dolphins currently at the DRC were born at the facility through breeding or artificial insemination).

²⁸ The facility's animal bios reflect that only four of the twenty-eight dolphins at the facility and one California sea lion are confirmed to be rescues. See *Our Animal Family*, DOLPHIN RSCH. CTR., https://dolphins.org/our_animal_family?cat=1&id=51#animal_facts.

as to the veracity of statements made in an advertisement.²⁹ The primary concern is the “net impression” an advertisement leaves on the general public.³⁰ The general impression here is that the DRC’s marketing tagline of “providing sanctuary and a forever home” applies to all the marine mammals in its care, not just a select few. Further, as detailed in Section B below, even those who were purportedly rescued by the DRC cannot be considered to receive “sanctuary” there, because they continue to be exploited by the DRC in its swim-with-dolphin programs and other direct contact encounters in contrast with the non-exploitative commitments true and reputable animal sanctuaries make. Accordingly, the explicit representations made in the DRC’s advertisements are false and misleading within the meaning of the FTC Act.

B. The DRC’s claims falsely imply that it is an animal sanctuary, misleading consumers into believing that they are visiting a true marine mammal sanctuary.

The phrase “providing sanctuary and a forever home since 1984” heavily implies that the facility is an animal sanctuary for marine mammals. This is patently false and misleads consumers as to the type of facility they will be visiting if they choose to purchase admission.

Animal sanctuaries are generally understood to be facilities that provide a safe home for animals who are in need of rehabilitation or are unable to be reintroduced to the wild. The Global Federation of Animal Sanctuaries (GFAS)—the only internationally recognized accrediting body for animal sanctuaries—defines sanctuary facilities as those providing “lifetime care for animals who have been abused, injured, abandoned, or are otherwise unable to live in the wild or in traditional domestic settings.”³¹ Animals at true sanctuaries typically come from “private ownership, research facilities, government agencies, the entertainment industry, or zoos.”³²

True sanctuaries are non-exploitative and do not engage in any of the following practices:

- (1) Commercial trade, including buying, selling, or trading of animals;
- (2) Captive-breeding; or
- (3) Direct public contact with wildlife.³³

To be eligible for GFAS accreditation, sanctuaries may not engage in any of the abovementioned exploitative conduct.³⁴ Sanctuaries may still offer guided public tours; however, they must be designed to cause minimal stress and disruption for the animals.³⁵

As discussed above, the majority of the marine mammals at the DRC were born in captivity at the facility. With few exceptions, these are not rescue animals from the entertainment industry or strandings who cannot safely be released back into the wild. They are captively bred for exploitation in the facility’s various direct contact encounters and swim-with-dolphin programs.

²⁹ *Sterling Drug*, 317 F.2d at 674.

³⁰ *In the Matter of Grolier, Inc., et al.*, 1978 WL 206098, at *8.

³¹ *Who Can Apply*, Glob. Fed’n of Animal Sanctuaries, <https://sanctuaryfederation.org/accreditation/definitions/>.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

The DRC’s interactive encounter program offerings are extensive.³⁶ As the following table reflects, the DRC offers ten different paid experiences that allow the public to directly interact and/or swim with the marine mammals at its facility. Even those animals who are classified as “rescues” at the facility appear to be utilized for these encounters.³⁷

Encounter Name	Species Involved	Price	Duration	General Description
Dolphin Sunset Celebration	Dolphins	\$199	1.5 Hours	A monthly evening event that includes the opportunity to feed the dolphins “specially prepared jello treats.”
Memory Maker Meet	Dolphins	\$105	15 Minutes	Program offering members of the public to interact with dolphins from a dock, including shaking their flippers and giving the dolphins a backrub.
Dolphin Encounter	Dolphins	\$249	20-25 Minutes (In-Water time)	Program offering significant interaction, both in water and from a dock, between the public and dolphins. This includes a dorsal pull in deep water, a dolphin handshake, a dolphin kiss, and more.
Dolphin Splash	Dolphins	\$149	20-25 Minutes (In-Water time)	A shallow water interactive experience providing the public with the opportunity to interact with the dolphins on a submerged platform.
Ultimate Trainer for the Day	Multiple Species	\$745	Full Day	A full day experience that includes the Dolphin Encounter, Paint with a Dolphin, and Play with the Dolphin sessions.
VIP Experience	Dolphins & Sea Lions	\$745	4 Hours	A half day experience that includes multiple interactive experiences, including painting with a dolphin, an in-water meeting with a dolphin, a dorsal pull, and more.
Researcher Experience	Dolphins & Sea Lions	\$475	4 Hours	A half day experience working with the research team. This program also includes a Dolphin Encounter session.
Meet a Dolphin	Dolphins	\$70	5 Minutes	Program offers the public the opportunity to meet a dolphin from the dock, shake their flipper, and give them a back rub.
Exclusive Private Dolphin Encounter	Dolphins	\$2,189-\$2,689	20-25 Minutes (In-Water time)	A private Dolphin Encounter session for one to six people that allows for more one-on-one interactions with the dolphins, including kisses, handshakes, dorsal pulls, and more.
Paint with a Dolphin	Dolphins	\$95	10 Minutes	A program that offers the public the opportunity to have a dolphin paint on a t-shirt or canvas panel for them. Participants are also allowed to provide the dolphin backrubs from the dock.

Animal sanctuaries provide animals who cannot be released into the wild with a safe home to live out the remainder of their lives. Sanctuaries are designed to allow their residents the opportunity to exhibit their natural behaviors as much as possible in a captive environment. Behaviors like holding a paint brush, towing a human by their dorsal fin, giving kisses, and performing circus-style tricks are not natural behaviors for dolphins, and these types of public interactions and performances are prohibited at actual sanctuaries. As such, these direct contact programs, along with its captive breeding program,

³⁶ *Interactive Experiences*, DOLPHIN RSCH. CTR., <https://dolphins.org/programs>.

³⁷ *See Jax*, DOLPHIN RSCH. CTR., https://dolphins.org/our_animal_family?cat=1&id=9#animal_facts (referencing that Jax, a dolphin rescued from the wild “makes friends with everyone” and “loves to meet new people.”).

demonstrate that the DRC does not meet the definition of an animal sanctuary, and it is false and misleading for it to imply as such in its marketing.

Additionally, the majority of the animals at the DRC are marine mammals. There are currently *no* marine mammal sanctuaries in North America.³⁸ The Whale Sanctuary Project only just recently received its initial approvals to construct the first ever North American marine mammal sanctuary in Nova Scotia, Canada.³⁹ Therefore, not only does the DRC not meet the definition of a true animal sanctuary, it also cannot imply that it is one, because it is well-recognized that none currently exist in North America.

C. Consumer Complaints and Reviews of the DRC reflect that its marketing claims not only have the capacity to mislead consumers but actually have.

While evidence of actual deception is not required to establish a violation of the FTC Act, consumer complaints and reviews made by individuals who have visited the DRC reflect that actual consumers have been misled and deceived by the facility’s advertisements. PETA received a complaint last year from a member of the public who visited the DRC after being misled by its marketing to expect an animal sanctuary. The full text of this complaint is attached to this complaint as Exhibit 1.

Complainant	Date of Complaint	Date of Visit to the DRC	Relevant Excerpts
Mona Prl	06/07/2025	06/06/2025	Among several welfare observations noted by Ms. Prl from her visit, she identified that “the facility’s designation as a ‘research center’ or ‘animal sanctuary’ is questionable. The conditions and treatment of the animals suggest that the primary function of the facility may be economic exploitation rather than genuine research or rehabilitation.”

Further, the table below reflects a small sampling of reviews posted by visitors on Trip Advisor expressing their disappointment that most of the dolphins at the DRC are not rescues and that it is not a true sanctuary or research center as they expected. The full text of these reviews are attached to this complaint as Exhibit 2.

Username	Review Date	Relevant Excerpts
Anna P	10/26/2021	“I wish I had done more research before we went- certainly we would not go again, knowing that this is essentially a for profit operation disguised as a sanctuary. They do not return animals [] to the wild and the animals have a poor quality of life. Very disappointed.”
Sourisverte	03/14/2019	Among other concerns from a visit in February 2019, this consumer expressed disappointment that “most of the dolphins [were] born there in captivity,” questioning “how’s that [a] ‘rescue center’?”
Heather J	01/20/2018	“We saw the dolphins painting and how they listened to commands which I liked and didn’t. I was expecting it to be like the Turtle Hospital with more of a rescue focus[,] but with the trainers giving commands to jump and swim[,] it felt more like seaworld. . . . Definitely disappointed.
AwayNow	01/22/2017	After visiting on January 18, 2017, this reviewer stated that they were “hoping for more of a dolphin sanctuary but instead just another Sea

³⁸ Palmer, *supra*, note 9.

³⁹ *Nova Scotia Sanctuary – Status Report Fall 2025*, THE WHALE SANCTUARY PROJECT (Oct. 28, 2025), <https://whalesanctuaryproject.org/nova-scotia-sanctuary-status-fall-2025/>.

		World like experience. For \$28[,] you get up close to dolphins doing tricks for the public so they receive a few fish in return.”
A_eden22	07/31/2016	“I’ve worked my entire adult life to avoid Sea World and anything remotely similar as animals shouldn’t be kept in captivity unnecessarily. . . . We stayed for 20 minutes and quickly left. . . . I thought it was a rehabilitation or dolphin sanctuary but most of them have been born in captivity or transferred from SEA WORLD, so depressing.”
Just_sayin97	02/21/2015	“I guess I should have expected the place to be more of a show . . . They supposedly ‘rescue’ dolphins[,] but really they are breeding dolphins in captivity to put on shows.”

Other reviews on Trip Advisor reflect that, even after visiting the DRC, some consumers still walked away with the false impression that they had visited and supported a true animal sanctuary that primarily rescues dolphins and other marine mammals. At least twenty-seven (27) reviews refer to the facility as a rescue organization or sanctuary and/or state that either all or most of the dolphins at the DRC are rescues.⁴⁰ Of the seventeen instances where the DRC responded to these reviews, the facility only attempted to correct this misinformation on six occasions.⁴¹

II. The DRC’s misrepresentations that it is “providing sanctuary and a forever home” to marine mammals are material.

A material misrepresentation is “one which is likely to affect a consumer’s choice of or conduct regarding a product.”⁴² As such, a misrepresentation is material if it is “information that is important to consumers.”⁴³ Unlike the first element of a deception claim, whether a misrepresentation is considered material is a subjective standard.⁴⁴ “[I]f consumers prefer one product to another, the Commission [does] not determine whether that preference is objectively justified.”⁴⁵ Express claims are presumed to be material,⁴⁶ since “the willingness of a business to promote its products reflects a belief that consumers are interested in the advertising.”⁴⁷

Public perception on keeping marine mammals in captivity is rapidly changing. In just the past two years alone, major marine parks have permanently closed, including Marineland Antibes,⁴⁸ Marineland of

⁴⁰ Exhibit 3.

⁴¹ *Id.*

⁴² FTC Policy Stmt. § IV at 5.

⁴³ *Id.*

⁴⁴ *Id.* at n.46.

⁴⁵ *Id.*

⁴⁶ *Id.* at 5.

⁴⁷ *Cent. Hudson Gas & Elec. Co. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557, 568 (1980).

⁴⁸ Marineland Antibes was Europe’s largest marine park, and it permanently closed its doors in January 2025 following a 2021 French law banning the use of whales and dolphins in shows. See Bea Mitchell, *Marineland in France to close down after law banning whale and dolphin shows*, BlooLoop (Dec. 6, 2024), <https://blooloop.com/theme-park/news/marineland-france-closing-law-cetacean-shows/>.

Canada,⁴⁹ Gulf World Marine Park,⁵⁰ and Miami Seaquarium.⁵¹ The Dolphin Company, one of the largest marine park operators in the world, is currently in bankruptcy and selling off its parks⁵²—several of which, including the above noted Miami Seaquarium and Gulf World Marine Park, have been sold to real estate developers for redevelopment. More of The Dolphin Company’s entities are expected to follow suit, with twelve marine parks in Mexico currently being auctioned for sale.⁵³ Canada and France have banned keeping cetacean species, which includes dolphins, in captivity,⁵⁴ and Mexico recently passed a bill that bans dolphin breeding, performances, and confinement to concrete tanks.⁵⁵

Consumers are recognizing the complex physical and psychological needs of marine mammals and the fact that these needs cannot be met in a captive environment. In October 2025, Embold Research surveyed over 1,200 registered voters in California on behalf of PETA to assess whether they would support a ban on the import, export, breeding, and use of dolphins for entertainment.⁵⁶ Over forty-seven percent (47%) of those surveyed voted that they would strongly support such a ban, which rose to sixty percent (60%) after voters were provided additional information regarding dolphins’ living conditions in captivity and forced breeding practices at marine parks like SeaWorld.⁵⁷ Similarly, fifty-six percent (56%) of those surveyed strongly preferred moving dolphins at marine parks to seaside sanctuaries.⁵⁸

It’s clear that it is important to consumers to know that their money is not being spent at facilities exploiting these species, so much so that their spending habits and preferences are causing new legislation to be passed around the globe and leading to cetacean captivity becoming a dying industry. This is further supported by the above identified reviews posted by actual consumers who visited the DRC and were discouraged to learn that they were misled into believing the facility to be a sanctuary and research center for rescue dolphins.

The FTC, itself, has acknowledged that, “for many consumers, a company’s claim that its products are humane is important to their decision whether or not to purchase products from that company,”⁵⁹ and

⁴⁹ Marineland of Canada closed to the public in late 2024, did not reopen for the 2025 season, and remains closed. See Samantha Beattie, *Marineland remains closed in Niagara Falls, Ont., says it hasn’t decided if it will open this year*, CBC NEWS (June 4, 2025), <https://www.cbc.ca/news/canada/hamilton/marineland-undecided-opening-1.7551316>.

⁵⁰ Gulf World Marine Park closed in May 2025 following the deaths of five dolphins between October 2024 and its closure. See Margaret Kates, *Popular Panama City Beach attraction closed after 5 dolphin deaths: What happens to its animals?*, AL.COM (July 2, 2025), <https://www.al.com/news/mobile/2025/07/iconic-panama-city-beach-attraction-closed-what-happens-to-its-animals.html>.

⁵¹ Miami Seaquarium permanently closed on October 12, 2025, after being sold to a real estate developer as part of The Dolphin Company’s ongoing Chapter 11 bankruptcy. See Briana Nespral, *Miami Seaquarium closes its doors after being in business for 70 years*, NBC MIAMI (Oct. 12, 2025), <https://www.nbcmiami.com/news/local/miami-seaquarium-closes-its-door-after-being-in-business-for-70-years/3705030/>.

⁵² See generally *Leisure Investment Holdings LLC, et al. (The Dolphin Company)*, <https://veritaglobal.net/dolphinco>.

⁵³ See Exhibit 4 (Notice of Proposed Sale, Auction, and Sale Hearing for the Debtors’ Mexican Assets).

⁵⁴ *Canada bans the captivity of whales, dolphins and porpoises for entertainment*, WORLD ANIMAL PROTECTION (June 10, 2019), <https://www.worldanimalprotection.org/latest/news/canada-bans-captivity-whales-dolphins-and-porpoises-entertainment/>; Nicole Pallotta, *France to End Mink Farming, Use of Wild Animals in Traveling Circuses, and Captivity of Orcas and Dolphins in Marine Parks*, ALDF (Dec. 28, 2020), <https://aldf.org/article/france-to-end-mink-farming-use-of-wild-animals-in-traveling-circuses-and-captivity-of-orcas-and-dolphins-in-marine-parks/>.

⁵⁵ Mark J. Palmer, *From Tanks to Sanctuaries: Mexico Votes to Free Captive Dolphins*, INT. MARINE MAMMAL PROJECT (July 1, 2025), <https://savedolphins.eii.org/news/from-tanks-to-sanctuaries-mexico-votes-to-free-captive-dolphins>.

⁵⁶ Exhibit 5 at 1.

⁵⁷ *Id.* at 5-6.

⁵⁸ *Id.* at 6-7.

⁵⁹ Exhibit 6 (Email from Mary Engle, Associate Director, Bureau of Consumer Protection, FTC, to PETA (Oct. 16, 2008)).

that “animal treatment is an important issue for consumers.”⁶⁰ With many consumers looking to ensure that their money is not being put towards the exploitation and continued captivity of marine mammals, the DRC’s assertions that it is “providing sanctuary and a forever home” for the marine mammals at its facility could influence a consumer’s decision to purchase admission. Accordingly, these misrepresentations are material within the meaning of the FTC Act.

⁶⁰ Exhibit 7 (Email from Mary Engle to Bonnie Robson, Counsel for PETA (Apr. 14, 2009)).