

# FTC: Bloggers, testimonials need better disclosure (Update 2)

October 5 2009

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(AP) -- The Federal Trade Commission on Monday took steps to make product information and online reviews more accurate for consumers, regulating blogging for the first time and mandating that testimonials reflect typical results.

The FTC will require that writers on the Web clearly disclose any freebies or payments they get from companies for reviewing their products. The commission also said advertisers featuring testimonials that claim dramatic results cannot hide behind disclaimers that the results aren't typical.

The FTC said its commissioners voted 4-0 to approve the final guidelines, which had been expected. The guides are not binding law, but rather interpretations of law that hope to help advertisers comply with regulations. Violating the rules, which take effect Dec. 1, could result in various sanctions including a lawsuit.

Testimonials have to spell out what consumers should expect to experience with their products. Previously, companies had just included disclaimers when results were out of the ordinary - such as a large weight loss - noting that the experience was not typical for all customers.

Testimonial advertisements can be effective for consumers since they show others talking about their experiences, giving hope to the consumer that they'll have that experience too. But they are misleading to consumers if they don't disclose what they should truly expect to

experience, the commission said.

For bloggers, the FTC stopped short of specifying how they must disclose conflicts of interest. Rich Cleland, assistant director of the FTC's advertising practices division, said the disclosure must be "clear and conspicuous," no matter what form it will take.

Bloggers have long praised or panned products and services online. But what some consumers might not know is that many companies pay reviewers for their write-ups or give them free products such as toys or computers or trips to Disneyland. In contrast, at traditional journalism outlets, products borrowed for reviews generally have to be returned.

Before the FTC gave notice last November it was going to regulate such endorsements, blogs varied in the level of disclosures about these potential conflicts of interest.

The FTC's proposal made many bloggers anxious. They said the scrutiny would make them nervous about posting even innocent comments.

To placate such fears, Cleland said the FTC will more likely go after an advertiser instead of a blogger for violations. The exception would be a blogger who runs a "substantial" operation that violates FTC rules and already received a warning, he said.

Existing FTC rules already banned deceptive and unfair business practices. The final guidelines aim to clarify the law for the vast world of blogging. Not since 1980 had the commission revised its guidelines on endorsements and testimonials.

Jack Gillis, a spokesman for the Consumer Federation of America, thinks the FTC doesn't go far enough to protect consumers from unethical bloggers.

"Consumers are increasingly dependent on the Internet for purchase information," he said. "There's tremendous opportunity to steer consumers to the wrong direction."

The consumer advocacy group said lack of disclosure is a big problem in blogs. To mainly crack down on companies that give out freebies or pay bloggers won't always solve the problem. By going after bloggers as well, "you put far more pressure on them to behave properly," Gillis said.

Cleland said a blogger who receives a freebie without the advertiser knowing would not violate FTC guidelines. For example, someone who gets a free bag of dog food as part of a promotion from a pet shop wouldn't violate FTC guidelines if he writes about the product on his blog.

Blogger Linsey Krolik said she's always disclosed any freebies she's received on products she writes about, but has stepped up her efforts since last fall. She said she adds a notice at the end of a post, "very clear in italics or bold or something - this is the deal. It's not kind of buried."

As for testimonials, the new guidelines amount to changing the rules in the middle of the game, said Daniel Fabricant, interim executive director and CEO of the Natural Products Association, a trade group for nutritional supplements and natural products manufacturers and retailers.

He said the new rules probably won't change ads for his members, but it will leave them wondering what the FTC considers "typical" results. He said the FTC needs to define what those are.

"I don't think they've done that," he said. "The results you see in clinics are going to be in some degree different from what you see in the consumer."

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Citation: FTC: Bloggers, testimonials need better disclosure (Update 2) (2009, October 5)  
retrieved 9 April 2024 from  
<https://phys.org/news/2009-10-ftc-bloggers-testimonials-disclosure.html>

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