

Be it snake oil or social media, transparency is recommended

Since the days when the snake-oil salesman would roll into town with a well-placed accomplice in the crowd to support bogus medicinal claims during his sales pitch, promotions professionals have struggled with issues of transparency and full disclosure. The Web has replaced the stage outside the covered wagon as the venue of choice, but the issues are still very relevant as word-of-mouth marketing and testimonials remain effective promotional strategies.

So, when is the line between creative publicity tactics and deceptive practices crossed? The Federal Trade Commission (FTC) has maintained its *Guides Concerning the Use of Endorsements and Testimonials in Advertising* for decades. In 2009, the FTC updated the guides to, among other things, specifically address the use of testimonials in blogs, social media, and other online outlets.

It's a fairly simple premise – where there is a material connection between the speaker and brand that the audience would not otherwise reasonably infer, a disclosure is needed. One of the FTC's first enforcement actions after the new guides were issued was against a PR firm, Reverb Communications

“PR PROS NEED TO GIVE THE ‘GRANDMA TEST’ TO ALL THEIR INITIATIVES”

had hyped the products of its video-game clients by posting glowing reviews in the iTunes store without disclosing it was paid to promote those games. It was clearly a deceptive practice.

The same disclosure issues can arise in many different campaigns, whether in comments on a blog, threads on a social media site, product placement deals, even coordinated efforts between journalists and marketers. PR pros need to step back and give the “grandma test” to all their initiatives – what would my grandmother think if she saw this statement or campaign? Would she realize a brand had paid for it? If the answer is no, then a disclosure might be necessary.

As Web services grow more elaborate, these issues become more challenging. Service providers themselves are trying to help set up boundaries. For example, while Facebook enables a user to establish a profile or a page, only a page that is publicly accessible, as opposed to a profile, which is only accessible to friends, may be used for commercial purposes. Twitter, which is naturally an open platform, does not have a similar distinction.

As PR pros continue to shape messages, these issues must be considered when engaging in a new campaign or innovative tactic. ●



Gary Kibel

Gary Kibel is an Advertising, Marketing and Promotions partner at the law firm Davis & Gilbert. He can be reached at gkibel@dglaw.com or [twitter@GaryKibel_Law](https://twitter.com/GaryKibel_Law).

