

FTC Releases New Resources for Influencers

The Bottom Line

- *The FTC's brochure and microsite are new resources that will be helpful for both marketers training their influencers as well as to influencers themselves in making disclosures.*
- *This clear and practical guidance from the FTC should put all involved parties — including influencers — on notice that, in the eyes of the FTC, there are no longer any excuses for not complying with the FTC Guides.*

As part of the Federal Trade Commission's (FTC) continuing effort to help influencers comply with the FTC's Endorsement Guides (FTC Guides), the FTC published a new brochure, entitled "Disclosures 101 for Social Media Influencers" (the Brochure), and launched a dedicated microsite, www.ftc.gov/influencers, to provide influencers with easy to understand tips for making effective disclosures.

Material Connections

As a reminder, the Brochure states that if an influencer endorses a product or service through social media, the message should make it obvious when the influencer has a "material connection" with the brand, such as a "personal, family, employment or financial relationship."

The FTC stresses that financial relationships are not necessarily product-specific — for example, an influencer should disclose an existing brand relationship when mentioning a brand's product, even if the brand did not request that the influencer mention that specific product.

Making Disclosures

The FTC also reminds influencers that "tags, likes, pins and similar ways of showing you like a brand or product are endorsements," and, further, that influencers cannot assume that their followers are aware of their connections to these brands.

The Brochure also recaps recent FTC guidance and offers practical tips for making disclosures, reminding influencers that disclosures should be simple and understandable to the reader.

For example, effective disclosures include:

- advertisement;
- ad;
- sponsored; and
- Thanks to Acme brand for the free product (if that's all an influencer received).

To the relief of many influencers, the guidance specifies that the terms AcmePartner and AcmeAmbassador (where Acme is the brand name) are effective disclosures on space-limited platforms like Twitter. In contrast, abbreviations (e.g., sp, spon, or collab) and standalone terms (e.g., thanks or ambassador) are not likely to be effective disclosures.

Further, in the eyes of the FTC, it is unlikely that a social media platform's built-in disclosure tool provides an effective disclosure. Rather, for picture-based disclosures on platforms like Instagram and Snapchat, influencers should superimpose the text of the disclosure over the picture.

For videos, the disclosure should be in the video itself and not simply in the description. For live streamed content, the disclosure should be repeated periodically so viewers who only see part of the streamed content will see it.

FTC Guides

The FTC has also taken this opportunity to reiterate the fundamental tenets of the FTC Guides — in particular, that influencers cannot talk about their experience with a product if they have not tried it and that influencers cannot “make up claims about a product that would require proof the advertiser doesn’t have — such as scientific proof that a product can treat a health condition.”

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