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FTC Orders The Bountiful Company to Pay $600,000 in Fines in First Case Challenging "Review Hijacking"

The Bottom Line

- Review hijacking can result in a misperception that consumers have reviewed and endorsed products that they have not actually used. Brands should be mindful when creating relationships between products or integrating new products or formulations onto webpages for existing products.
- The FTC is expected to continue scrutinizing potentially deceptive review practices as well as overall testimonials and endorsements.
- Brands should take care to avoid deceptive tactics in connection with consumer reviews.

Given the increasing reliance consumers have on product reviews when making purchase decisions, the FTC is honing in on companies' deceptive consumer review practices. In its latest action on point, the FTC ordered The Bountiful Company to pay $600,000 in fines for "review hijacking." This is the first case filed by the FTC challenging this specific practice, which is when brands use the positive reviews of one product to inflate the rating and consumer perception of unrelated products.

In a complaint filed in February, the FTC alleged that The Bountiful Company tried to increase sales of newly launched products by abusing an Amazon.com feature to deceive consumers. The FTC claimed The Bountiful Company used this technique so customers would think that its newly introduced supplements had more product ratings and reviews, higher average ratings and "#1 Best Seller" and "Amazon's Choice" badges.

Specifically, the FTC alleged that the company used an Amazon tool to create "variation" relationships between products sold on Amazon.com that are substantially similar to the brand's products. Products with a variation relationship are featured on the same product detail page and display the total number of ratings and reviews and the average star rating of *all* the products in the variation relationship, as well as any "#1 Best Seller" or "Amazon's Choice" badges.

According to the FTC, "variating new products with 'top sellers' allowed new products to essentially 'borrow' the best-selling flags, ratings, reviews and first page placement." As such, this allowed the company to manipulate Amazon.com product pages to misrepresent the reviews, the number of Amazon reviews and the average star ratings of some products, as well as to make it falsely appear that some were number-one best sellers or had earned an Amazon Choice badge.

Because review hijacking can result in a misperception that consumers have reviewed and endorsed products that they have not actually used, brands should be mindful when creating relationships between products, or integrating new products or formulations onto webpages for existing products.

Larger Focus on Consumer Reviews

This enforcement action is part of a larger FTC focus on consumer reviews, which includes:

- **Failure to Disclose Material Connections:** Material connections, such as a payment, free gifts, sweepstakes or contest entries or family/employment relationships, between a reviewer and the brand must be disclosed to consumers. The FTC has historically focused on this issue. Last year, the Commission reached a $3.5 million settlement with Vision Path, the seller of Hubble contacts, in part because the company allegedly attempted to counter negative publicity by offering existing consumers free contacts in exchange for posting positive reviews without disclosing to consumers that the reviewers were incentivized.
- **Purchasing Fake Reviews:** Consumers expect that reviews are posted by bona fide users of the reviewed product or service. It is deceptive to pay for reviews and represent them as truthful reviews written by actual purchasers of a product. Last year, the FTC reached a settlement agreement with Roomster after the company allegedly sold tens of thousands of fake positive reviews to dilute negative reviews posted by actual consumers.
- **Suppression of Negative Reviews:** As we discussed above, filtering out negative reviews may create a misleading overall impression about a product or service. Last year, the FTC reached a $4.2 million settlement with Fashion Nova for only posting four- and five-star reviews. To stop consumers from posting negative reviews, Roca Labs enforced "gag clauses" alleging that consumers violated the non-disparagement provisions of the "Terms and Conditions" consumers agreed to when they bought the company's products. A judgment was entered against Roca Labs for $25.3 million.

For More Information

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