

14 Years in the Making: FTC Unveils Updated FTC Endorsement Guides

The Bottom Line

- It has been a busy week for the FTC – and expect the regulators to keep churning. The FTC is likely already on the hunt for a test case to apply the newly revised Endorsement Guides.
- Now is the time to get ahead of the updates and audit both internal and external influencer and social media disclosure policies to ensure compliance.
- Stay tuned for our deep dive into the updates and what they mean for marketers, agencies and endorsers going forward.

Today, the [FTC announced](#) its newly revised and long-awaited Endorsement Guides, which aim to update and clarify previous guidance regarding the use of endorsements and testimonials in light of market trends and the ever-evolving digital landscape. The new Endorsement Guides, which have not been revised since 2009, take into account public comments filed since the FTC [proposed updates in May 2022](#).

The final Endorsement Guides make a number of important and sweeping revisions to the prior Endorsement Guides, focusing in particular on:

- Deceptive review practices, such as suppressing negative reviews or otherwise manipulating reviews to distort what consumers think of a product through boosting, upvoting, downvoting, editing, or other tactics;
- How to handle incentivized reviews and reviews by employees, including “seeding” fake reviews of competitors;
- What it really means to make a “clear and conspicuous” disclosure on social media – which may not be achieved by using a platform’s built-in disclosure tool;
- Expanding the definition of what an “endorsement” is – which now expressly includes the use of virtual influencers, tags and fictionalized reviews in social media;

- The relative liability of advertisers, agencies, intermediaries and even endorsers themselves;
- Child-directed advertising, which is now its own entirely new section of the Endorsement Guides.

FTC Focus on Child-Directed Advertising

The new section on child-directed advertising states that “(e)ndorsements in advertisements addressed to children may be of special concern because of the character of the audience” and “(p)ractices that would not ordinarily be questioned in advertisements addressed to adults might be questioned in such cases.” The FTC declined to provide further guidance as to what this new section means for influencer marketing directed to children other than to state that research on children’s cognitive development suggests disclosures will not work for younger children and that marketers and endorsers should be particularly careful in their use of endorsements directed to children.

Updated FAQs

The FTC also updated its 2017 FAQ document – [The FTC’s Endorsement Guides: What People Are Asking](#) to reflect the new Endorsement Guides. The new document includes myriad updates of note, including 40 additional questions and dozens of revisions to the existing answers to address new technologies and social media platforms. Notably, it is geared towards influencers as well as marketers, clearly instructing endorsers of their disclosure obligations across different kinds of platforms. On the marketer side, the FTC has added its own perspective regarding a brand’s monitoring obligations when running an influencer campaign.

For More Information

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