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FTC Releases Disclosure Manual for Social Media Influencers

TOPICS: Social Media, Influence Advertising, FTC, US

The Federal Trade Commission ("FTC") has issued a [guide](#) for social media influencers on the **disclosure obligations for endorsements**. The guide provides influencers with advice on what triggers the need for a disclosure and is seen as part of the FTC's efforts to stop deceptive advertising on social media.

According to the FTC, **it is the influencers' responsibility to disclose to their followers whether they have any "material connection" with a brand endorsed by them**. The term "material connection" includes a personal, family, employment or other financial relationship between the influencer and the brand. Financial relationships are not limited to the exchange of money, and disclosure is required if an influencer receives anything of value in order to mention a product. Disclosure is also required when an influencer receives gifts or discounts without being asked to mention the specific product.

The provided disclosures, shall be **written in plain and clear language and be placed in locations that are hard to miss**. Influencers shall **avoid using vague or confusing terms and abbreviations** and shall give the disclosure in the same language as the endorsement itself is presented. Moreover, **disclosures on profile pages, end of posts or videos or between hashtags or links, may be deemed insufficient**. When using mediums similar to a "story", disclosures shall be **embedded in the presented picture or video**. The FTC recommends that disclosures for video endorsement shall be available both in audio and video. Moreover, **live stream endorsements** require periodically repeated disclosures in order to ensure that viewers, who watch only part of the stream, will see the disclosure. The **guide recommends influencers not to rely on the disclosure tools provided by the social media platforms and to consider using their own disclosure**.

The guide further explains that if an influencer has no relationship with the brand, and is merely providing his review on a product he/she tried and liked, then no disclosure is required. Influencers shall not portray their experience regarding products they have not tried, or give any false recommendations. In addition, they shall not make up/invent claims about products that would require proof, which is not available to the advertisers – such as scientific proof that the product can treat a health condition.

Technology & Regulation Industry Spotlight



The guide also addresses the question of the **territorial scope** of the FTC Act, stating that when posting from abroad, US laws will apply in parallel to the applicable domestic laws if it is reasonably foreseeable that the post will affect US consumers.

Just recently, we [reported](#) on a \$2.5 million fine which the FTC imposed on a CEO of a company who sold fake likes and followers on social media. We encourage companies engaged in influence marketing to read the FTC guide and our [Influencer Marketing Rules of Engagement](#) guide, and to contact us with any further questions.

This update was published as part of our Technology & Regulation monthly client update. To read more about HFN's Technology & Regulation Department, [click here](#).