



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

The FTC's Endorsement Guides: What People Are Asking

TAGS: [Advertising and Marketing](#) | [Endorsements](#) | [Online Advertising and Marketing](#)

Answers to questions people are asking about the FTC's Endorsement Guides, including information about disclosing material connections between advertisers and endorsers.

Suppose you meet someone who tells you about a great new product. She tells you it performs wonderfully and offers fantastic new features that nobody else has. Would that recommendation factor into your decision to buy the product? Probably.

Now suppose the person works for the company that sells the product – or has been paid by the company to tout the product. Would you want to know that when you're evaluating the endorser's glowing recommendation? You bet. That common-sense premise is at the heart of the Federal Trade Commission's (FTC) [Endorsement Guides](#).

The Guides, at their core, reflect the basic truth-in-advertising principle that endorsements must be honest and not misleading. An endorsement must reflect the honest opinion of the endorser and can't be used to make a claim that the product's marketer couldn't legally make.

In addition, the Guides say, if there's a connection between an endorser and the marketer that consumers would not expect and it would affect how consumers evaluate the endorsement, that connection should be disclosed. For example, if an ad features an endorser who's a relative or employee of the marketer, the ad is misleading unless the connection is made clear. The same is usually true if the endorser has been paid or given something of value to tout the product. The reason is obvious: Knowing about the connection is important information for anyone evaluating the endorsement.

Say you're planning a vacation. You do some research and find a glowing review on someone's blog that a particular resort is the most luxurious place he has ever stayed. If you knew the hotel had paid the blogger hundreds of dollars to say great things about it or that the blogger had stayed there for several days for free, it could affect how much weight you'd give the blogger's endorsement. The blogger should, therefore, let his readers know about that relationship.

Another principle in the Guides applies to ads that feature endorsements from people who achieved exceptional, or even above average, results. An example is an endorser who says she lost 20 pounds in two months using the advertised product. If the advertiser doesn't have proof that the endorser's experience represents what people will generally achieve using the product as described in the ad (for example, by just taking a pill daily for two months), then an ad featuring that endorser must make clear to the audience what the generally expected results are.

Here are answers to some of our most frequently asked questions from advertisers, ad agencies, bloggers, and others.

Table of Contents

- [About the Endorsement Guides](#)
- [When Does the FTC Act Apply to Endorsements?](#)
- [Product Placements](#)
- [Endorsements by Individuals on Social Networking Sites](#)
- [How Should I Disclose That I Was Given Something for My Endorsement?](#)
- [Other Things for Endorsers to Know](#)
- [Social Media Contests](#)
- [Online Review Programs](#)
- [Soliciting Endorsements](#)
- [What Are an Advertiser's Responsibilities for What Others Say in Social Media?](#)
- [What About Intermediaries?](#)
- [What About Affiliate or Network Marketing?](#)
- [Expert Endorsers Making Claims Outside of Traditional Advertisements](#)
- [Employee Endorsements](#)
- [Using Testimonials That Don't Reflect the Typical Consumer Experience](#)

About the Endorsement Guides

Do the Endorsement Guides apply to social media?

Yes. Truth in advertising is important in all media, whether they have been around for decades (like television and magazines) or are relatively new (like blogs and social media).

Isn't it common knowledge that bloggers are paid to tout products or that if you click a link on a blogger's site to buy a product, the blogger will get a commission?

No. Some bloggers who mention products in their posts have no connection to the marketers of those products – they don't receive anything for their reviews or get a commission. They simply recommend those products to their readers because they believe in them.

Moreover, the financial arrangements between some bloggers and advertisers may be apparent to industry insiders, but not to everyone else who reads a particular blog. Under the law, an act or practice is deceptive if it misleads "a significant minority" of consumers. Even if some readers are aware of these deals, many readers aren't. That's why disclosure is important.

Are you monitoring bloggers?

Generally not, but if concerns about possible violations of the FTC Act come to our attention, we evaluate them case by case. If law enforcement becomes necessary, our focus usually will be on advertisers or their ad agencies and public relations firms. Action against an individual endorser, however, might be appropriate in certain circumstances, such as if the endorser has continued to fail to make required disclosures despite warnings.

Does the FTC hold bloggers to a higher standard than reviewers for traditional media outlets?

No. The FTC Act applies across the board. The issue is – and always has been – whether the audience understands the reviewer's relationship to the company whose products are being recommended. If the audience understands the relationship, a disclosure isn't needed.

If you're employed by a newspaper or TV station to give reviews – whether online or offline – your audience probably understands that your job is to provide your personal opinion on behalf of the newspaper or television station. In that situation, it's clear that you did not buy the product yourself – whether it's a book or a car or a movie ticket. On a personal blog, a social networking page, or in similar media, the reader might not realize that the reviewer has a relationship with the company whose products are being recommended. Disclosure of that relationship helps readers decide how much weight to give the review.

What is the legal basis for the Guides?

The FTC conducts investigations and brings cases involving endorsements made on behalf of an advertiser under Section 5 of the FTC Act, which generally prohibits deceptive advertising.

The Guides are intended to give insight into what the FTC thinks about various marketing activities involving endorsements and how Section 5 might apply to those activities. The Guides themselves don't have the force of law. However, practices inconsistent with the Guides may result in law enforcement actions alleging violations of the FTC Act. Law enforcement actions can result in orders requiring the defendants in the case to give up money they received from their violations and to abide by various requirements in the future. Despite inaccurate news reports, there are no "fines" for violations of the FTC Act.

When Does the FTC Act Apply to Endorsements?

I'm a blogger. I heard that every time I mention a product on my blog, I have to say whether I got it for free or paid for it myself. Is that true?

No. If you mention a product you paid for yourself, there isn't an issue. Nor is it an issue if you get the product for free because a store is giving out free samples to its customers.

The FTC is only concerned about endorsements that are made on behalf of a sponsoring advertiser. For example, an endorsement would be covered by the FTC Act if an advertiser – or someone working for an advertiser – pays you or gives you something of value to mention a product. If you receive free products or other perks with the expectation that you'll promote or discuss the advertiser's products in your blog, you're covered. Bloggers who are part of network marketing programs, where they sign up to receive free product samples in exchange for writing about them, also are covered.

What if all I get from a company is a \$1-off coupon, an entry in a sweepstakes or a contest, or a product that is only worth a few dollars? Does that still have to be disclosed?

The question you need to ask is whether knowing about that gift or incentive would affect the weight or credibility your readers give to your recommendation. If it could, then it should be disclosed. For example, being entered into a sweepstakes or a contest for a chance to win a thousand dollars in exchange for an endorsement could very well affect how people view that endorsement. Determining whether a small gift would affect the weight or credibility of an endorsement could be difficult. It's always safer to disclose that information.

Also, even if getting one free item that's not very valuable doesn't affect your credibility, continually getting free stuff

from an advertiser or multiple advertisers could suggest you expect future benefits from positive reviews. If a blogger or other endorser has a relationship with a marketer or a network that sends freebies in the hope of positive reviews, it's best to let readers know about the free stuff.

Even an incentive with no financial value might affect the credibility of an endorsement and would need to be disclosed. The Guides give the example of a restaurant patron being offered the opportunity to appear in television advertising before giving his opinion about a product. Because the chance to appear in a TV ad could sway what someone says, that incentive should be disclosed.

My company makes a donation to charity anytime someone reviews our product. Do we need to make a disclosure?

Some people might be inclined to leave a positive review in an effort to earn more money for charity. The overarching principle remains: If readers of the reviews would evaluate them differently knowing that they were motivated in part by charitable donations, there should be a disclosure. Therefore, it might be better to err on the side of caution and disclose that donations are made to charity in exchange for reviews.

What if I upload a video to YouTube that shows me reviewing several products? Should I disclose that I got them from an advertiser?

Yes. The guidance for videos is the same as for websites or blogs.

What if I return the product after I review it? Should I still make a disclosure?

That might depend on the product and how long you are allowed to use it. For example, if you get free use of a car for a month, we recommend a disclosure even though you have to return it. But even for less valuable products, it's best to be open and transparent with your readers.

I have a website that reviews local restaurants. It's clear when a restaurant pays for an ad on my website, but do I have to disclose which restaurants give me free meals?

If you get free meals, you should let your readers know so they can factor that in when they read your reviews.

I'm opening a new restaurant. To get feedback on the food and service, I'm inviting my family and friends to eat for free. If they talk about their experience on social media, is that something that should be disclosed?

You've raised two issues here. First, it may be relevant to readers that people endorsing your restaurant on social media are related to you. Therefore, they should disclose that personal relationship. Second, if you are giving free meals to anyone and seeking their endorsement, then their reviews in social media would be viewed as advertising subject to FTC jurisdiction. But even if you don't specifically ask for their endorsement, there may be an expectation that attendees will spread the word about the restaurant. Therefore, if someone who eats for free at your invitation posts about your restaurant, readers of the post would probably want to know that the meal was on the house.

I have a YouTube channel that focuses on hunting, camping, and the outdoors. Sometimes I'll do a product review. Knife manufacturers know how much I love knives, so they send me knives as free gifts, hoping that I will review them. I'm under no obligation to talk about any knife and getting the knives as gifts really doesn't affect my judgment. Do I need to disclose when I'm talking about a knife I got for free?

Even if you don't think it affects your evaluation of the product, what matters is whether knowing that you got the knife for free might affect how *your audience* views what you say about the knife. It doesn't matter that you aren't required to review every knife you receive. Your viewers may assess your review differently if they knew you got the knife for free,

so we advise disclosing that fact.

Several months ago a manufacturer sent me a free product and asked me to write about it in my blog. I tried the product, liked it, and wrote a favorable review. When I posted the review, I disclosed that I got the product for free from the manufacturer. I still use the product. Do I have to disclose that I got the product for free every time I mention it in my blog?

It might depend on what you say about it, but each new endorsement made without a disclosure could be deceptive because readers might not see the original blog post where you said you got the product free from the manufacturer.

A trade association hired me to be its “ambassador” and promote its upcoming conference in social media, primarily on Facebook, Twitter, and in my blog. The association is only hiring me for five hours a week. I disclose my relationship with the association in my blogs and in the tweets and posts I make about the event during the hours I’m working. But sometimes I get questions about the conference in my off time. If I respond via Twitter when I’m not officially working, do I need to make a disclosure? Can that be solved by placing a badge for the conference in my Twitter profile?

You have a financial connection to the company that hired you and that relationship exists whether or not you are being paid for a particular tweet. If you are endorsing the conference in your tweets, your audience has a right to know about your relationship. That said, some of your tweets responding to questions about the event might not be endorsements, because they aren't communicating your opinions about the conference (for example, if someone just asks you for a link to the conference agenda).

Also, if you respond to someone's questions about the event via email or text, that person probably already knows your affiliation or they wouldn't be asking you. You probably wouldn't need a disclosure in that context. But when you respond via social media, all your followers see your posts and some of them might not have seen your earlier disclosures.

With respect to posting the conference's badge on your Twitter profile page, a disclosure on a profile page isn't sufficient because many people in your audience probably won't see it. Also, depending upon what it says, the badge may not adequately inform consumers of your connection to the trade association. If it's simply a logo or hashtag for the event, it won't tell consumers of your relationship to the association.

I'm a blogger and a company wants me to attend the launch of its new product. They will fly me to the launch and put me up in a hotel for a couple of nights. They aren't paying me or giving me anything else. If I write a blog sharing my thoughts about the product, should I disclose anything?

Yes. Knowing that you received free travel and accommodations could affect how much weight your readers give to your thoughts about the product, so you should disclose that you have a financial relationship with the company.

I share in my social media posts about products I use. Do I actually have to say something positive about a product for my posts to be endorsements covered by the FTC Act?

Simply posting a picture of a product in social media, such as on Pinterest, or a video of you using it could convey that you like and approve of the product. If it does, it's an endorsement.

You don't necessarily have to use words to convey a positive message. If your audience thinks that what you say or otherwise communicate about a product reflects your opinions or beliefs about the product, and you have a relationship with the company marketing the product, it's an endorsement subject to the FTC Act.

Of course, if you don't have any relationship with the advertiser, then your posts simply are not subject to the FTC Act,

no matter what you show or say about the product. The FTC Act covers only endorsements made on behalf of a sponsoring advertiser.

If I post a picture of myself to Instagram and tag the brand of dress I'm wearing, but don't say anything about the brand in my description of the picture, is that an endorsement? And, even if it is an endorsement, wouldn't my followers understand that I only tag the brands of my sponsors?

Tagging a brand you are wearing is an endorsement of the brand and, just like any other endorsement, could require a disclosure if you have a relationship with that brand. Some influencers only tag the brands of their sponsors, some tag brands with which they don't have relationships, and some do a bit of both. Followers might not know why you are tagging a dress and some might think you're doing it just because you like the dress and want them to know.

Say a car company pays a blogger to write that he wants to buy a certain new sports car and he includes a link to the company's site. But the blogger doesn't say he's going to actually buy the car – or even that he's driven it. Is that still an endorsement subject to the FTC's Endorsement Guides?

Yes, an endorsement can be aspirational. It's an endorsement if the blogger is explicitly or implicitly expressing his or her views about the sports car (e.g., "I want this car"). If the blogger was paid, it should be disclosed.

I'm a book author and I belong to a group where we agree to post reviews in social media for each other. I'll review someone else's book on a book review site or a bookstore site if he or she reviews my book. No money changes hands. Do I need to make a disclosure?

It sounds like you have a connection that might materially affect the weight or credibility of your endorsements (that is, your reviews), since bad reviews of each others' books could jeopardize the arrangement. There doesn't have to be a monetary payment. The connection could be friendship, family relationships, or strangers who make a deal.

My Facebook page identifies my employer. Should I include an additional disclosure when I post on Facebook about how useful one of our products is?

It's a good idea. People reading your posts in their news feed – or on your profile page – might not know where you work or what products your employer makes. Many businesses are so diversified that readers might not realize that the products you're talking about are sold by your company.

A famous athlete has thousands of followers on Twitter and is well-known as a spokesperson for a particular product. Does he have to disclose that he's being paid every time he tweets about the product?

It depends on whether his followers understand that he's being paid to endorse that product. If they know he's a paid endorser, no disclosure is needed. But if a significant portion of his followers don't know that, the relationship should be disclosed. Determining whether followers are aware of a relationship could be tricky in many cases, so we recommend disclosure.

A famous celebrity has millions of followers on Twitter. Many people know that she regularly charges advertisers to mention their products in her tweets. Does she have to disclose when she's being paid to tweet about products?

It depends on whether her followers understand that her tweets about products are paid endorsements. If a significant portion of her followers don't know that, disclosures are needed. Again, determining that could be tricky, so we recommend disclosure.

I'm a video blogger who lives in London. I create sponsored beauty videos on YouTube. The products that I

promote are also sold in the U.S. Am I under any obligation to tell my viewers that I have been paid to endorse products, considering that I'm not living in the U.S.?

To the extent it is reasonably foreseeable that your YouTube videos will be seen by and affect U.S. consumers, U.S. law would apply and a disclosure would be required. Also, the U.K. and many other countries have similar laws and policies, so you'll want to check those, too.

Product Placements

What does the FTC have to say about product placements on television shows?

Federal Communications Commission law (FCC, not FTC) requires TV stations to include disclosures of product placement in TV shows.

The FTC has expressed the opinion that under the FTC Act, product placement (that is, merely showing products or brands in third-party entertainment content – as distinguished from sponsored content or disguised commercials) doesn't require a disclosure that the advertiser paid for the placement.

What if the host of a television talk show expresses her opinions about a product – let's say a videogame – and she was paid for the promotion? The segment is entertainment, it's humorous, and it's not like the host is an expert. Is that different from a product placement and does the payment have to be disclosed?

If the host endorses the product – even if she is just playing the game and saying something like “wow, this is awesome” – it's more than a product placement. If the payment for the endorsement isn't expected by the audience and it would affect the weight the audience gives the endorsement, it should be disclosed. It doesn't matter that the host isn't an expert or the segment is humorous as long as the endorsement has credibility that would be affected by knowing about the payment. However, if what the host says is obviously an advertisement – think of an old-time television show where the host goes to a different set, holds up a cup of coffee, says “Wake up with ABC Coffee. It's how I start my day!” and takes a sip – a disclosure probably isn't necessary.

Endorsements by Individuals on Social Networking Sites

Many social networking sites allow you to share your interests with friends and followers by clicking a button or sharing a link to show that you're a fan of a particular business, product, website or service. Is that an "endorsement" that needs a disclosure?

Many people enjoy sharing their fondness for a particular product or service with their social networks.

If you write about how much you like something you bought on your own and you're not being rewarded, you don't have to worry. However, if you're doing it as part of a sponsored campaign or you're being compensated – for example, getting a discount on a future purchase or being entered into a sweepstakes for a significant prize – then a disclosure is appropriate.

I am an avid social media user who often gets rewards for participating in online campaigns on behalf of brands. Is it OK for me to click a “like” button, pin a picture, or share a link to show that I'm a fan of a particular business, product, website or service as part of a paid campaign?

Using these features to endorse a company's products or services as part of a sponsored brand campaign probably requires a disclosure.

We realize that some platforms – like Facebook's "like" buttons – don't allow you to make a disclosure. Advertisers shouldn't encourage endorsements using features that don't allow for clear and conspicuous disclosures. Whether the Commission may take action would depend on the overall impression, including whether consumers take "likes" to be material in their decision to patronize a business or buy a product.

However, an advertiser buying fake "likes" is very different from an advertiser offering incentives for "likes" from actual consumers. If "likes" are from non-existent people or people who have no experience using the product or service, they are clearly deceptive, and both the purchaser and the seller of the fake "likes" could face enforcement action.

I posted a review of a service on a website. Now the marketer has taken my review and changed it in a way that I think is misleading. Am I liable for that? What can I do?

No, you aren't liable for the changes the marketer made to your review. You could, and probably should, complain to the marketer and ask them to stop using your altered review. You also could file complaints with the FTC, your local consumer protection organization, and the Better Business Bureau.

How Should I Disclose That I Was Given Something for My Endorsement?

Is there special wording I have to use to make the disclosure?

No. The point is to give readers the essential information. A simple disclosure like "Company X gave me this product to try" will usually be effective.

Do I have to hire a lawyer to help me write a disclosure?

No. What matters is effective communication. A disclosure like "Company X gave me [name of product], and I think it's great" gives your readers the information they need. Or, at the start of a short video, you might say, "The products I'm going to use in this video were given to me by their manufacturers." That gives the necessary heads-up to your viewers.

Do I need to list the details of everything I get from a company for reviewing a product?

No. What matters is whether the information would have an effect on the weight readers would give your review. So whether you got \$100 or \$1,000 you could simply say you were "paid." (That wouldn't be good enough, however, if you're an employee or co-owner.) And if it is something so small that it would not affect the weight readers would give your review, you may not need to disclose anything.

When should I say more than that I got a product for free?

It depends on whether you got something else from the company. Saying that you got a product for free suggests that you didn't get anything else.

For example, if an app developer gave you their 99-cent app for free for you to review it, that information might not have much effect on the weight that readers give to your review. But if the app developer also gave you \$100, knowledge of that payment would have a much greater effect on the credibility of your review. So a disclosure that simply said you got the app for free wouldn't be good enough, but as discussed above, you don't have to disclose exactly how much you

were paid.

Similarly, if a company gave you a \$50 gift card to give away to one of your readers and a second \$50 gift card to keep for yourself, it wouldn't be good enough only to say that the company gave you a gift card to give away.

I'm doing a review of a videogame that hasn't been released yet. The manufacturer is paying me to try the game and review it. I was planning on disclosing that the manufacturer gave me a "sneak peek" of the game. Isn't that enough to put people on notice of my relationship to the manufacturer?

No, it's not. Getting early access doesn't mean that you got paid. Getting a "sneak peek" of the game doesn't even mean that you get to keep the game. If you get early access, you can say that, but if you get to keep the game or are paid, you should say so.

Would a single disclosure on my home page that "many of the products I discuss on this site are provided to me free by their manufacturers" be enough?

A single disclosure on your home page doesn't really do it because people visiting your site might read individual reviews or watch individual videos without seeing the disclosure on your home page.

If I upload a video to YouTube and that video requires a disclosure, can I just put the disclosure in the description that I upload together with the video?

No, because consumers can easily miss disclosures in the video description. Many people might watch the video without even seeing the description page, and those who do might not read the disclosure. The disclosure has the most chance of being clear and prominent if it's included in the video itself. That's not to say that you couldn't have disclosures in both the video and the description.

What about a disclosure in the description of an Instagram post?

When people view Instagram streams on most smartphones, descriptions more than four lines long are truncated, with only the first three lines displayed. To see the rest, you have to click "more." If an Instagram post makes an endorsement through the picture or the first three lines of the description, any required disclosure should be presented without having to click "more."

Would a button that says DISCLOSURE, LEGAL, or something like that which links to a full disclosure be sufficient?

No. A hyperlink like that isn't likely to be sufficient. It does not convey the importance, nature, and relevance of the information to which it leads and it is likely that many consumers will not click on it and therefore will miss necessary disclosures. The disclosures we are talking about are brief and there is no space-related reason to use a hyperlink to provide access to them.

The social media platform I use has a built-in feature that allows me to disclose paid endorsements. Is it sufficient for me to rely on that tool?

Not necessarily. Just because a platform offers a feature like that is no guarantee it's an effective way for influencers to disclose their material connection to a brand. It still depends on an evaluation of whether the tool clearly and conspicuously discloses the relevant connection. One factor the FTC will look to is placement. The disclosure should catch users' attention and be placed where they aren't likely to miss it. A key consideration is how users view the screen when using a particular platform. For example, on a photo platform, users paging through their streams will likely look at the eye-catching images. Therefore, a disclosure placed above a photo may not attract their attention. Similarly,

a disclosure in the lower corner of a video could be too easy for users to overlook. Second, the disclosure should use a simple-to-read font with a contrasting background that makes it stand out. Third, the disclosure should be a worded in a way that's understandable to the ordinary reader. Ambiguous phrases are likely to be confusing. For example, simply flagging that a post contains paid content might not be sufficient if the post mentions multiple brands and not all of the mentions were paid. The big-picture point is that the ultimate responsibility for clearly disclosing a material connection rests with the influencer and the brand – not the platform.

How can I make a disclosure on Snapchat or in Instagram Stories?

You can superimpose a disclosure on Snapchat or Instagram Stories just as you can superimpose any other words over the images on those platforms. The disclosure should be easy to notice and read in the time that your followers have to look at the image. In determining whether your disclosure passes muster, factors you should consider include how much time you give your followers to look at the image, how much competing text there is to read, how large the disclosure is, and how well it contrasts against the image. (You might want to have a solid background behind the disclosure.) Keep in mind that if your post includes video and you include an audio disclosure, many users of those platforms watch videos without sound. So they won't hear an audio-only disclosure. Obviously, other general disclosure guidance would also apply.

What about a platform like Twitter? How can I make a disclosure when my message is limited to 140 characters?

The FTC isn't mandating the specific wording of disclosures. However, the same general principle – that people get the information they need to evaluate sponsored statements – applies across the board, regardless of the advertising medium. The words "Sponsored" and "Promotion" use only 9 characters. "Paid ad" only uses 7 characters. Starting a tweet with "Ad:" or "#ad" – which takes only 3 characters – would likely be effective.

You just talked about putting "#ad" at the beginning of a social media post. What about "#ad" at or near the end of a post?

We're not necessarily saying that "#ad" has to be at the beginning of a post. The FTC does not dictate where you have to place the "#ad." What the FTC will look at is whether it is easily noticed and understood. So, although we aren't saying it has to be at the beginning, it's less likely to be effective in the middle or at the end. Indeed, if #ad is mixed in with links or other hashtags at the end, some readers may just skip over all of that stuff.

What if we combine our company name, "Cool Stytle" with "ad" as in "#coolstyllead"?

There is a good chance that consumers won't notice and understand the significance of the word "ad" at the end of a hashtag, especially one made up of several words combined like "#coolstyllead." Disclosures need to be easily noticed and understood.

Is it good enough if an endorser says "thank you" to the sponsoring company?

No. A "thank you" to a company or a brand doesn't necessarily communicate that the endorser got something for free or that they were given something in exchange for an endorsement. The person posting in social media could just be thanking a company or brand for providing a great product or service. But "Thanks XYZ for the free product" or "Thanks XYZ for the gift of ABC product" would be good enough – if that's all you got from XYZ. If that's too long, there's "Sponsored" or "Ad."

What about saying, "XYZ Company asked me to try their product"?

Depending on the context of the endorsement, it might be clear that the endorser got the product for free and kept it

after trying it. If that isn't clear, then that disclosure wouldn't be good enough. Also, that disclosure might not be sufficient if, in addition to receiving a free product, the endorser was paid.

I provide marketing consulting and advice to my clients. I'm also a blogger and I sometimes promote my client's products. Are "#client" "#advisor" and "#consultant" all acceptable disclosures?

Probably not. Such one-word hashtags are ambiguous and likely confusing. In blogs, there isn't an issue with a limited number of characters available. So it would be much clearer if you say something like, "I'm a paid consultant to the marketers of XYZ" or "I work with XYZ brand"(where XYZ is a brand name).

Of course, it's possible that that some shorter message might be effective. For example, something like "XYZ_Consultant" or "XYZ_Advisor" might work. But even if a disclosure like that is clearer, no disclosure is effective if consumers don't see it and read it.

Would "#ambassador" or "#[BRAND]_Ambassador" work in a tweet?

The use of "#ambassador" is ambiguous and confusing. Many consumers are unlikely to know what it means. By contrast, "#XYZ_Ambassador" will likely be more understandable (where XYZ is a brand name). However, even if the language is understandable, a disclosure also must be prominent so it will be noticed and read.

I'm a blogger, and XYZ Resort Company is flying me to one of its destinations and putting me up for a few nights. If I write an article sharing my thoughts about the resort destination, how should I disclose the free travel?

Your disclosure could be just, "XYZ Resort paid for my trip" or "Thanks to XYZ Resort for the free trip." It would also be accurate to describe your blog as "sponsored by XYZ Resort."

The Guides say that disclosures have to be clear and conspicuous. What does that mean?

To make a disclosure "clear and conspicuous," advertisers should use plain and unambiguous language and make the disclosure stand out. Consumers should be able to notice the disclosure easily. They should not have to look for it. In general, disclosures should be:

- close to the claims to which they relate;
- in a font that is easy to read;
- in a shade that stands out against the background;
- for video ads, on the screen long enough to be noticed, read, and understood;
- for audio disclosures, read at a cadence that is easy for consumers to follow and in words consumers will understand.

A disclosure that is made in both audio and video is more likely to be noticed by consumers. Disclosures should not be hidden or buried in footnotes, in blocks of text people are not likely to read, or in hyperlinks. If disclosures are hard to find, tough to understand, fleeting, or buried in unrelated details, or if other elements in the ad or message obscure or distract from the disclosures, they don't meet the "clear and conspicuous" standard. With respect to online disclosures, FTC staff has issued a guidance document, "[.com Disclosures: How to Make Effective Disclosures in Digital Advertising](#)," which is available on ftc.gov.

Where in my blog should I disclose that my review is sponsored by a marketer? I've seen some say it at the top and others at the bottom. Does it matter?

Yes, it matters. A disclosure should be placed where it easily catches consumers' attention and is difficult to miss. Consumers may miss a disclosure at the bottom of a blog or the bottom of a page. A disclosure at the very top of the page, outside of the blog, might also be overlooked by consumers. A disclosure is more likely to be seen if it's very close to, or part of, the endorsement to which it relates.

I've been paid to endorse a product in social media. My posts, videos, and tweets will be in Spanish. In what language should I disclose that I've been paid for the promotion?

The connection between an endorser and a marketer should be disclosed in whatever language or languages the endorsement is made, so your disclosures should be in Spanish.

I guess I need to make a disclosure that I've gotten paid for a video review that I'm uploading to YouTube. When in the review should I make the disclosure? Is it ok if it's at the end?

It's more likely that a disclosure at the end of the video will be missed, especially if someone doesn't watch the whole thing. Having it at the beginning of the review would be better. Having multiple disclosures during the video would be even better. Of course, no one should promote a link to your review that bypasses the beginning of the video and skips over the disclosure. If YouTube has been enabled to run ads during your video, a disclosure that is obscured by ads is not clear and conspicuous.

I'm getting paid to do a videogame playthrough and give commentary while I'm playing. The playthrough – which will last several hours – will be live streamed. Would a disclosure at the beginning of the stream be ok?

Since viewers can tune in any time, they could easily miss a disclosure at the beginning of the stream or at any other single point in the stream. If there are multiple, periodic disclosures throughout the stream people are likely to see them no matter when they tune in. To be cautious, you could have a continuous, clear and conspicuous disclosure throughout the entire stream.

Other Things for Endorsers to Know

Besides disclosing my relationship with the company whose product I'm endorsing, what are the essential things I need to know about endorsements?

The most important principle is that an endorsement has to represent the accurate experience and opinion of the endorser:

- You can't talk about your experience with a product if you haven't tried it.
- If you were paid to try a product and you thought it was terrible, you can't say it's terrific.

You can't make claims about a product that would require proof the advertiser doesn't have. The Guides give the example of a blogger commissioned by an advertiser to review a new body lotion. Although the advertiser does not make any claims about the lotion's ability to cure skin conditions and the blogger does not ask the advertiser whether there is substantiation for the claim, she writes that the lotion cures eczema. The blogger is subject to liability for making claims without having a reasonable basis for those claims.

Social Media Contests

My company runs contests and sweepstakes in social media. To enter, participants have to send a Tweet or

make a pin with the hashtag, #XYZ_Rocks. (“XYZ” is the name of my product.) Isn’t that enough to notify readers that the posts were incentivized?

No, it is likely that many readers would not understand such a hashtag to mean that those posts were made as part of a contest or that the people doing the posting had received something of value (in this case, a chance to win the contest prize). Making the word “contest” or “sweepstakes” part of the hashtag should be enough. However, the word “sweeps” probably isn’t, because it is likely that many people would not understand what that means.

Online Review Programs

My company runs a retail website that includes customer reviews of the products we sell. We believe honest reviews help our customers and we give out free products to a select group of our customers for them to review. We tell them to be honest, whether it’s positive or negative. What we care about is how helpful the reviews are. Do we still need to disclose which reviews were of free products?

Yes. Knowing that reviewers got the product they reviewed for free would probably affect the weight your customers give to the reviews, even if you didn’t intend for that to happen. And even assuming the reviewers in your program are unbiased, your customers have the right to know which reviewers were given products for free. It’s also possible that the reviewers may wonder whether your company would stop sending them products if they wrote several negative reviews – despite your assurances that you only want their honest opinions – and that could affect their reviews. Also, reviewers given free products might give the products higher ratings on a scale like the number of stars than reviewers who bought the products. If that’s the case, consumers may be misled if they just look at inflated average ratings rather than reading individual reviews with disclosures. Therefore, if you give free products to reviewers you should disclose next to any average or other summary rating that it includes reviewers who were given free products.

My company, XYZ, operates one of the most popular multi-channel networks on YouTube. We just entered into a contract with a videogame marketer to pay some of our network members to produce and upload video reviews of the marketer’s games. We’re going to have these reviewers announce at the beginning of each video (before the action starts) that it’s “sponsored by XYZ” and also have a prominent simultaneous disclosure on the screen saying the same thing. Is that good enough?

Many consumers could think that XYZ is a neutral third party and won’t realize from your disclosures that the review was really sponsored (and paid for) by the videogame marketer, which has a strong interest in positive reviews. If the disclosure said, “Sponsored by [name of the game company],” that would be good enough.

Soliciting Endorsements

My company wants to contact customers and interview them about their experiences with our service. If we like what they say about our service, can we ask them to allow us to quote them in our ads? Can we pay them for letting us use their endorsements?

Yes, you can ask your customers about their experiences with your product and feature their comments in your ads. If they have no reason to expect compensation or any other benefit before they give their comments, there’s no need to disclose your payments to them.

However, if you’ve given these customers a reason to expect a benefit from providing their thoughts about your product, you should disclose that fact in your ads. For example, if customers are told in advance that their comments might be

used in advertising, they might expect to receive a payment for a positive review, and that could influence what they say, even if you tell them that you want their honest opinion. In fact, even if you tell your customers that you aren't going to pay them but that they might be featured in your advertising, that opportunity might be seen as having a value, so the fact that they knew this when they gave the review should be disclosed (e.g., "Customers were told in advance they might be featured in an ad.").

I'm starting a new Internet business. I don't have any money for advertising, so I need publicity. Can I tell people that if they say good things about my business on Yelp or Etsy, I'll give them a discount on items they buy through my website?

It's not a good idea. Endorsements must reflect the honest opinions or experiences of the endorser, and your plan could cause people to make up positive reviews even if they've never done business with you. However, it's okay to invite people to post reviews of your business after they've actually used your products or services. If you're offering them something of value in return for these reviews, tell them in advance that they should disclose what they received from you. You should also inform potential reviewers that the discount will be conditioned upon their making the disclosure. That way, other consumers can decide how much stock to put in those reviews.

A company is giving me a free product to review on one particular website or social media platform. They say that if I voluntarily review it on another site or on a different social media platform, I don't need to make any disclosures. Is that true?

No. If you received a free or discounted product to provide a review somewhere, your connection to the company should be disclosed everywhere you endorse the product.

Does it matter how I got the free product to review?

No, it doesn't. Whether they give you a code, ship it directly to you, or give you money to buy it yourself, it's all the same for the purpose of having to disclose that you got the product for free. The key question is always the same: If consumers knew the company gave it to you for free (or at a substantial discount), might that information affect how much weight they give your review?

My company wants to get positive reviews. We are thinking about distributing product discounts through various services that encourage reviews. Some services require individuals who want discount codes to provide information allowing sellers to read their other reviews before deciding which reviewers to provide with discount codes. Other services send out offers of a limited number of discount codes and then follow up by email to see whether the recipients have reviewed their products. Still others send offers of discount codes to those who previously posted reviews in exchange for discounted products. All of these services say that reviews are not required. Does it matter which service I choose? I would prefer that recipients of my discount codes not have to disclose that they received discounts.

Whichever service you choose, the recipients of your discount codes need to disclose that they received a discount from you to encourage their reviews. Even though the services might say that a review is not "required," it's at least implied that a review is expected.

What Are an Advertiser's Responsibilities for What Others Say in Social Media?

Our company uses a network of bloggers and other social media influencers to promote our products. We

understand we're responsible for monitoring our network. What kind of monitoring program do we need? Will we be liable if someone in our network says something false about our product or fails to make a disclosure?

Advertisers need to have reasonable programs in place to train and monitor members of their network. The scope of the program depends on the risk that deceptive practices by network participants could cause consumer harm – either physical injury or financial loss. For example, a network devoted to the sale of health products may require more supervision than a network promoting, say, a new fashion line. Here are some elements every program should include:

1. Given an advertiser's responsibility for substantiating objective product claims, explain to members of your network what they can (and can't) say about the products – for example, a list of the health claims they can make for your products, along with instructions not to go beyond those claims;
2. Instruct members of the network on their responsibilities for disclosing their connections to you;
3. Periodically search for what your people are saying; and
4. Follow up if you find questionable practices.

It's unrealistic to expect you to be aware of every single statement made by a member of your network. But it's up to you to make a reasonable effort to know what participants in your network are saying. That said, it's unlikely that the activity of a rogue blogger would be the basis of a law enforcement action if your company has a reasonable training, monitoring, and compliance program in place.

Our company's social media program is run by our public relations firm. We tell them to make sure that what they and anyone they pay on our behalf do complies with the FTC's Guides. Is that good enough?

Your company is ultimately responsible for what others do on your behalf. You should make sure your public relations firm has an appropriate program in place to train and monitor members of its social media network. Ask for regular reports confirming that the program is operating properly and monitor the network periodically. Delegating part of your promotional program to an outside entity doesn't relieve you of responsibility under the FTC Act.

What About Intermediaries?

I have a small network marketing business. Advertisers pay me to distribute their products to members of my network who then try the product for free. How do the principles in the Guides affect me?

You should tell the participants in your network that if they endorse products they have received through your program, they should make it clear they got them for free. Advise your clients – the advertisers – that if they provide free samples directly to your members, they should remind them of the importance of disclosing the relationship when they talk about those products. Put a program in place to check periodically whether your members are making those disclosures, and to deal with anyone who isn't complying.

My company recruits "influencers" for marketers who want them to endorse their products. We pay and direct the influencers. What are our responsibilities?

Like an advertiser, your company needs to have reasonable programs in place to train and monitor the influencers you pay and direct.

What About Affiliate or Network Marketing?

I'm an affiliate marketer with links to an online retailer on my website. When people read what I've written about a particular product and then click on those links and buy something from the retailer, I earn a commission from the retailer. What do I have to disclose? Where should the disclosure be?

If you disclose your relationship to the retailer clearly and conspicuously on your site, readers can decide how much weight to give your endorsement.

In some instances – like when the affiliate link is embedded in your product review – a single disclosure may be adequate. When the review has a clear and conspicuous disclosure of your relationship and the reader can see both the review containing that disclosure and the link at the same time, readers have the information they need. You could say something like, “I get commissions for purchases made through links in this post.” But if the product review containing the disclosure and the link are separated, readers may not make the connection.

As for where to place a disclosure, the guiding principle is that it has to be clear and conspicuous. The closer it is to your recommendation, the better. Putting disclosures in obscure places – for example, buried on an ABOUT US or GENERAL INFO page, behind a poorly labeled hyperlink or in a “terms of service” agreement – isn't good enough. Neither is placing it below your review or below the link to the online retailer so readers would have to keep scrolling after they finish reading. Consumers should be able to notice the disclosure easily. They shouldn't have to hunt for it.

Is “affiliate link” by itself an adequate disclosure? What about a “buy now” button?

Consumers might not understand that “affiliate link” means that the person placing the link is getting paid for purchases through the link. Similarly, a “buy now” button would not be adequate.

What if I'm including links to product marketers or to retailers as a convenience to my readers, but I'm not getting paid for them?

Then there isn't anything to disclose.

Does this guidance about affiliate links apply to links in my product reviews on someone else's website, to my user comments, and to my tweets?

Yes, the same guidance applies anytime you endorse a product and get paid through affiliate links.

It's clear that what's on my website is a paid advertisement, not my own endorsement or review of the product. Do I still have to disclose that I get a commission if people click through my website to buy the product?

If it's clear that what's on your site is a paid advertisement, you don't have to make additional disclosures. Just remember that what's clear to you may not be clear to everyone visiting your site, and the FTC evaluates ads from the perspective of reasonable consumers.

Expert Endorsers Making Claims Outside of Traditional Advertisements

One of our company's paid spokespersons is an expert who appears on news and talk shows promoting our product, sometimes along with other products she recommends based on her expertise. Your Guides give an example of a celebrity spokesperson appearing on a talk show and recommend that the celebrity disclose her connection to the company she is promoting. Does that principle also apply to expert endorsers?

Yes, it does. Your spokesperson should disclose her connection when promoting your products outside of traditional advertising media (in other words, on programming that consumers won't recognize as paid advertising). The same guidance also would apply to comments by the expert in her blog or on her website.

Employee Endorsements

I work for a terrific company. Can I mention our products to people in my social networks? How about on a review site? My friends won't be misled since it's clear in my online profiles where I work.

If your company allows employees to use social media to talk about its products, you should make sure that your relationship is disclosed to people who read your online postings about your company or its products. Put yourself in the reader's shoes. Isn't the employment relationship something you would want to know before relying on someone else's endorsement? Listing your employer on your profile page isn't enough. After all, people who just read what you post on a review site won't get that information.

People reading your posting on a review site probably won't know who you are. You definitely should disclose your employment relationship when making an endorsement.

On her own initiative and without us asking, one of our employees used her personal social network simply to "like" or "share" one of our company's posts. Does she need to disclose that she works for our company?

Whether there should be any disclosure depends upon whether the "like" or "share" could be viewed as an advertisement for your company. If the post is an ad, then employees endorsing the post should disclose their relationship to the company. With a share, that's fairly easy to do, "Check out my company's great new product" Regarding "likes," see what we said above about "likes."

Our company's policy says that employees shouldn't post positive reviews online about our products without clearly disclosing their relationship to the company. All of our employees agree to abide by this policy when they are hired. But we have several thousand people working here and we can't monitor what they all do on their own computers and other devices when they aren't at work. Are we liable if an employee posts a review of one of our products, either on our company website or on a social media site and doesn't disclose that relationship?

It wouldn't be reasonable to expect you to monitor every social media posting by all of your employees. However, you should establish a formal program to remind employees periodically of your policy, especially if the company encourages employees to share their opinions about your products. Also, if you learn that an employee has posted a review on the company's website or a social media site without adequately disclosing his or her relationship to the company, you should remind them of your company policy and ask them to remove that review or adequately disclose that they're an employee.

What about employees of an ad agency or public relations firm? Can my agency ask our employees to spread the buzz about our clients' products?

First, an ad agency (or any company for that matter) shouldn't ask employees to say anything that isn't true. No one should endorse a product they haven't used or say things they don't believe about a product, and an employer certainly shouldn't encourage employees to engage in such conduct.

Moreover, employees of an ad agency or public relations firm have a connection to the advertiser, which should be disclosed in all social media posts. Agencies asking their employees to spread the word must instruct those employees

about their responsibilities to disclose their relationship to the product they are endorsing, e.g., “My employer is paid to promote [name of product],” or simply “Advertisement,” or when space is an issue, “Ad” or “#ad.”

My company XYZ wants to tell our employees what to disclose in social media. Is “#employee” good enough?

Consumers may be confused by “#employee.” Consumers would be more likely to understand “#XYZ_Employee.” Then again, if consumers don't associate your company's name with the product or brand being endorsed, that disclosure might not work. It would be much clearer to use the words “my company” or “employer's” in the body of the message. It's a lot easier to understand and harder to miss.

Using Testimonials That Don't Reflect the Typical Consumer Experience

We want to run ads featuring endorsements from consumers who achieved the best results with our company's product. Can we do that?

Testimonials claiming specific results usually will be interpreted to mean that the endorser's experience reflects what others can also expect. Statements like “Results not typical” or “Individual results may vary” won't change that interpretation. That leaves advertisers with two choices:

1. Have adequate proof to back up the claim that the results shown in the ad are typical, or
2. Clearly and conspicuously disclose the generally expected performance in the circumstances shown in the ad.

How would this principle about testimonialists who achieved exceptional results apply in a real ad?

The Guides include several examples with practical advice on this topic. One example is about an ad in which a woman says, “I lost 50 pounds in 6 months with WeightAway.” If consumers can't generally expect to get those results, the ad should say how much weight consumers can expect to lose in similar circumstances – for example, “Most women who use WeightAway for six months lose at least 15 pounds.”

Our company website includes testimonials from some of our more successful customers who used our product during the past few years and mentions the results they got. We can't figure out now what the “generally expected results” were back then. What should we do? Do we have to remove those testimonials?

There are two issues here. First, according to the Guides, if your website says or implies that the endorser currently uses the product in question, you can use that endorsement only as long as you have good reason to believe the endorser does still use the product. If you're using endorsements that are a few years old, it's your obligation to make sure the claims still are accurate. If your product has changed, it's best to get new endorsements.

Second, if your product is the same as it was when the endorsements were given and the claims are still accurate, you probably can use the old endorsements if the disclosures are consistent with what the generally expected results are now.

Where can I find out more?

The Guides offer more than 35 examples involving various endorsement scenarios. Questions? Send them to endorsements@ftc.gov. We may address them in future FAQs.

The FTC works to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide

information to help consumers spot, stop and avoid them. To file a complaint or get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. Watch a video, [How to File a Complaint](#), at consumer.ftc.gov/media to learn more. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Your Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.

September 2017



ftc.gov