

FTC ENDORSEMENT GUIDELINES

2023 UPDATES FAQ



Who is the FTC?

The Federal Trade Commission is an independent agency of the United States government whose work is performed by the Bureau of Consumer Protection, Competition and Economics. The Bureau of Consumer Protection's mandate is to protect consumers against unfair, deceptive, or fraudulent practices.

What are the FTC Endorsement Guides?

The FTC Endorsement Guides updates released in 2023 (last revised in 2009) describe the principles used by the FTC to evaluate whether advertising endorsements and testimonials are in violation of section 5 of the FTC Act, which generally prohibits deceptive advertising.

What do the FTC guides tell us?

"The Guides" reinforce the principles that advertising must be honest and not misleading, that endorsers must disclose any material connection to the brand, that the claims, reviews, or testimonial material from the endorser must be true and represent typical results, and that any required disclosures must be clear and conspicuous.

Why is this important?

Whether purposeful or not, without clear disclosure of an endorsement, consumers can be misled, leading to a loss of trust between the consumer, brand, or endorser. Without proper disclosures, the advertiser, the brand or the agency may be held liable for violation of Section 5 of the FTC Act.

What is considered an endorsement?

The definition of "endorsement" is broadened to cover a wider array of messages, including tags, reviews, and any other promotional messages "that consumers are likely to believe reflects the opinion, beliefs, findings, or experiences" of the endorser. Endorsements include fake reviews, virtual influencers, testimonials, social media tags, and the names/seals of organizations.

How does the FTC define Material Connections?

Affiliates and Influencers ("endorsers") must disclose any "material connections with an advertiser." This includes commissions, free products, placement fees, etc.

How do I disclose? Can I use social tools?

Disclosures must be "clear and conspicuous" and "unavoidable." This includes being placed at the top of any blog posts and not hidden on a privacy or disclosure page.

- The customer must not have to click to read the disclosure.
- Pop-up disclosures should not be used.
- The FTC has warned that a platform's built-in disclosure tool might not be adequate.

When do you have to disclose?

Every time an endorsement is made or when there is a "material connection" between the advertiser (brand) and the endorser (affiliate/influencer/reviewer.)

Where the disclosure must be located?

Disclosures should be placed where ordinary consumers will not miss them and displayed in an easy-to-read font that contrasts enough to stand out from its background.

- *FTC Examples: on an image-centric social media platform, disclosures would not be conspicuous enough if they were included only above a photo, buried at the end of a post's long caption, or in small font that blends into the background. For Video Ads, a disclosure in the corner of the video may be too easy for consumers to miss - if the endorsement is made via audio and video, the disclosures must use both mediums and may require multiple or continuous disclosures throughout a video.*

The Guides suggest proper disclosures on platforms such as Instagram Stories and TikTok may consist of clearly contrasting and centrally placed disclosures superimposed onto the video reel.

When do you **not** have to disclose?

If you are an ordinary consumer who writes online about how much you like something you personally bought and you have no relationship with the advertiser, no disclosure is necessary. However...

If you are questioning if you should disclose, the answer is yes!

Anything you post that ties you to a brand through points, money, free products/services, etc., should be disclosed clearly and conspicuously.

What happens if you don't comply?

You, your company, an agency, or a brand could be subject to financial penalties, as well as a federal court order.

**This applies to the agency/brand/affiliate/influencer involved.*

Why do affiliate partners need to follow these guidelines?

Affiliate partners should disclose their relationship to the retailer where they post, so readers can decide how much weight to give their endorsement.

When the audience can see both the post containing the disclosure and the link at the same time, readers have the information they need- it is conspicuous. However, if the post containing the disclosure and the link are separated, the audience may not make the connection.

When placing a disclosure, the guiding principle is that it has to be clear and conspicuous. The closer the disclosure is to your recommendation, the better.

When placing a disclosure, the guiding principle is that it has to be clear and conspicuous. The closer the disclosure is to your recommendation, the better.

What terminology is approved?

Approved Hashtags

#ad
#BRAND_Ambassador
#BRAND_Partner

Note: 'BRAND' is the advertiser name

Video: As the Endorsement Guides say, if the endorsement is made through visual means, the disclosure should be made at least visually. If the representation is made audibly, the disclosure should be made at least audibly.

If the representation is made through both visual and audible means, the disclosure presented simultaneously in both the visual and audible portions of an ad is more likely to be clear and conspicuous.

Approved Words & Phrases

Ad:
Brand Ambassador
Paid Ad:
Paid Post by Brand
Advertising:
Advertisement
Sponsored by Brand:
Gifted by Brand
Promotion by Brand:
Paid Link
BrandPartner:
Thanks Brand for Free Product

Helpful Tips for Disclosure Statements

- An endorser cannot rely solely on the social media platform's built-in disclosure tool.
- An endorser cannot rely on a clickable link—i.e., "click for more"—that contains a disclosure.
- An advertisement that "microtargets" foreign language speakers cannot rely on a disclosure in English.
- A disclosure must be "clear and conspicuous" on all devices used (i.e., internet webpage and smartphone).
- A disclosure only on the influencer's profile page is insufficient; it must be made in conjunction with the claim.
- A small disclosure in white text against a light background of an image that appears for a short time is insufficient.

Where can I find additional information?

Click [here](#) to learn more about the FTC Guidelines.

If you would like to talk to an expert about these updates and how you can best comply, don't hesitate to [reach out](#) to us.