



Office of Commissioner
Rebecca Kelly Slaughter

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Statement of Commissioner Rebecca Kelly Slaughter

*Regarding the Request for Public Comment on Amendments to the Guides Concerning the Use of
Endorsements and Testimonials in Advertising
As Prepared for Delivery*

Federal Trade Commission Open Meeting
May 19, 2022

Thank you, Amber Lee, for that presentation on our revised Endorsement Guides. I appreciate all the work that's gone into updating the guides and getting them ready for publication and public comment. As industry practices continue to evolve it is imperative that the FTC keep businesses, endorsers, and the public, aware of how we see our Section 5 authority here and our enforcement priorities in this changing environment. These updates are necessary. But these guides alone aren't enough. False and deceptive endorsements are a major problem for consumers and honest competitors. I see these guides, actions we've taken over the past year, and steps I hope we take, as part of a process to ensure there is real accountability for law violators that take advantage of people's trust and lie about their products and services.

The advertising market has continued to change significantly since we last published these guides in 2009. I'm happy to see that we're far past thinking about old Madison Avenue techniques. These guides address how people advertise today. Influencer marketing, for example, is lucrative and effective. The influencer economy grows by billions of dollars a year. Online reviews and influencer endorsements are ubiquitous on the internet and they present real and new challenges. Unlike yesterday's celebrity endorsers, influencers are often seen as experts in their market, whether that's for fashion, health products, or cutting-edge consumer technology. Influencers constantly interact with their followers in their market or social niche. These are often relationships of trust and without clear guidelines and responsibilities they are ripe for commercial exploitation and deception. The new guides make it clear that we intend to investigate breaches of that trust, whether it's by brands manipulating reviews, influencers not disclosing material relationships with companies, or by microtargeting aimed at deceiving specific groups of consumers.

But there's still much more to do. Online commerce devolves into a game of roulette if we can't trust reviews or make informed decisions about which endorsements to believe. In 2019 I joined with former Commissioner Chopra to press for stronger penalties in these kinds of cases. As we said back then, "Fake reviews distort our markets by rewarding bad actors and harming honest companies."¹ To realign the market and help make sure reviews and endorsements are

¹ *Statement of Commissioner Rohit Chopra Joined by Commissioner Rebecca Kelly Slaughter in the Matter of Sunday Riley*, Federal Trade Commission (October 21, 2019), https://www.ftc.gov/system/files/documents/public_statements/1550127/192_3008_final_rc_statement_on_sunday_riley.pdf

honest we have to be able to seek civil penalties for deception in this area – especially as we continue to deal with the loss of our 13(b) authority.

We began the work of bringing some much needed deterrence and clarity to this market with last year’s Notice of Penalty Offenses regarding fake and deceptive endorsements.² I’m glad to hear we’ll hold a public event later this year on children’s capacity to understand and distinguish advertising. But guides cannot be as clear as rules, and in light of the loss of 13(b) they cannot have the same deterrent effect either. Instead of asking honest businesses to parse hypotheticals I’d like to see them follow clear guardrails so the FTC staff can do what they do so well and what Congress intended us to do: Carry out our statutory objective to investigate and challenge illegal conduct.

I want to thank everyone that helped work on the Guides. From DAP – Amber Lee, Michael Ostheimer, Michael Atleson, Rich Cleland, Serena Viswanathan; from the BCP Director’s Office – Patty Hsue, Joannie Wei; from DCBE – Rosario Mendez, June Chang; from BE – Shiva Koohi; and from OGC – Marie Choi, and Josephine Liu.

² *FTC Puts Hundreds of Businesses on Notice about Fake Reviews and other Misleading Endorsements*, Federal Trade Commission (October 13, 2021), <https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-puts-hundreds-businesses-notice-about-fake-reviews-other-misleading-endorsements>