



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

Division of Advertising Practices

[DATE]

Via Federal Express

[NAME]

Re: Unlawful practices relating to the use of endorsements and testimonials

Dear [NAME]:

I am enclosing the Federal Trade Commission's Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct around Endorsements and Testimonials. Companies use endorsements and testimonials in many forms to advertise and market their products and services, both in traditional and social media, as well as in the form of online reviews. As reflected by the Commission's enforcement actions and other efforts, some companies use these advertising tools in a manner that deceives consumers. We recommend that you carefully review the notice and take any steps necessary to ensure that your company's practices do not violate the law.

The notice of penalty offenses consists of Commission determinations in prior litigated cases that certain practices are deceptive or unfair and are unlawful under Section 5 of the Federal Trade Commission Act. As set forth in more detail in the notice, these acts and practices include: falsely claiming an endorsement by a third party; misrepresenting that an endorser is an actual user, a current user, or a recent user; continuing to use an endorsement without good reason to believe that the endorser continues to subscribe to the views presented; misrepresenting that an endorsement represents the experience, views, or opinions of users or purported users; using an endorsement to make deceptive performance claims; failing to disclose an unexpected material connection with an endorser; and misrepresenting that the experience of endorsers represents consumers' typical or ordinary experience. Note that positive consumer reviews are a type of endorsement, so such reviews can be unlawful, e.g., when they are fake or when a material connection is not adequately disclosed.

Receipt of the notice puts your company on notice that engaging in conduct described therein could subject the company to civil penalties of up to \$43,792 per violation.¹

We request that you distribute copies of the notice of penalty offenses and this letter to each of your subsidiaries that sells or markets products or services to consumers in the United States.

¹ See 15 U.S.C. § 45(m)(1)(B).

[NAME]

[DATE]

Page 2 of 2

FTC staff is not singling out your company or suggesting that you have engaged in deceptive or unfair conduct. We are widely distributing similar letters and the notice to large companies, top advertisers, leading retailers, top consumer product companies, and major advertising agencies.

Copies of the case decisions discussed in the notice are available on the Commission's website at www.ftc.gov/endorsement-notice-penalty-offenses.

The Commission's website has other important resources designed to ensure that advertisers know their responsibilities under the FTC Act. These resources include a staff business guidance document, *The FTC's Endorsement Guides: What People Are Asking*, available at www.ftc.gov/endorsements. That document contains a link to the FTC's *Guides Concerning the Use of Endorsements and Testimonials in Advertising*, 16 CFR Part 255.

If you have any questions about this letter or the enclosed materials, please contact Michael Ostheimer at mostheimer@ftc.gov or (202) 326-3556 or Michael Atleson at matleson@ftc.gov or (202) 326-2962.

Very truly yours,

Serena Viswanathan
Associate Director