

The FTC Cracks Down on Company Touting the Best Reviews Its Money Could Buy

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Social media has completely overhauled the way businesses market themselves, and has substantially elevated the importance and influence of online customer reviews. Seldom do you complete an online transaction without a pop-up window asking you to rate the shopping experience with that merchant, and customer service representatives vigorously patrol online reviews and proactively try to remedy problems cited by dissatisfied customers in the hopes of having any negative post removed or softened. In its zeal to solicit positive online reviews, one company went too far, drawing the attention and ire of the Federal Trade Commission, which brought its first enforcement action aimed at curbing deceptive solicitations of positive online reviews.

Among other things, the target company offered varied pricing based upon whether the customer would agree to provide a positive review, and offered cash rewards for the "Best Monthly Review." Significantly, in touting the online reviews that it solicited, the company failed to disclose that the reviewers had been offered discounts and incentives, and instead held out the reviews as the unbiased views of customers, stating: "You don't have to believe us, our customers say it all." The Commission sued for violations of Section 5 of the FTC Act (15 USC § 45) which prohibits "unfair or deceptive acts or practices in or affecting commerce." The action was settled, with the company accepting both stringent restrictions on its online marketing, and onerous reporting obligations relating to its advertising and promotional activities. In announcing the settlement, the Commission pronounced that companies must make it clear when they have offered compensation to any customer for their online review, or they will be deemed to be in violation of Section 5.

While this may have been the first enforcement action of its kind, it most certainly will not be the last. Indeed, the FTC actively counsels consumers on the detection of deceptive advertising, and makes it easy to report suspected offenders online. Talk to Your General Counsel about making sure that your company's programs or policies that involve solicitation of reviews from customers fully comply with the FTC Act.

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