



FTC Crackdowns on Influencer and AI-Generated Content

Brent Johnson

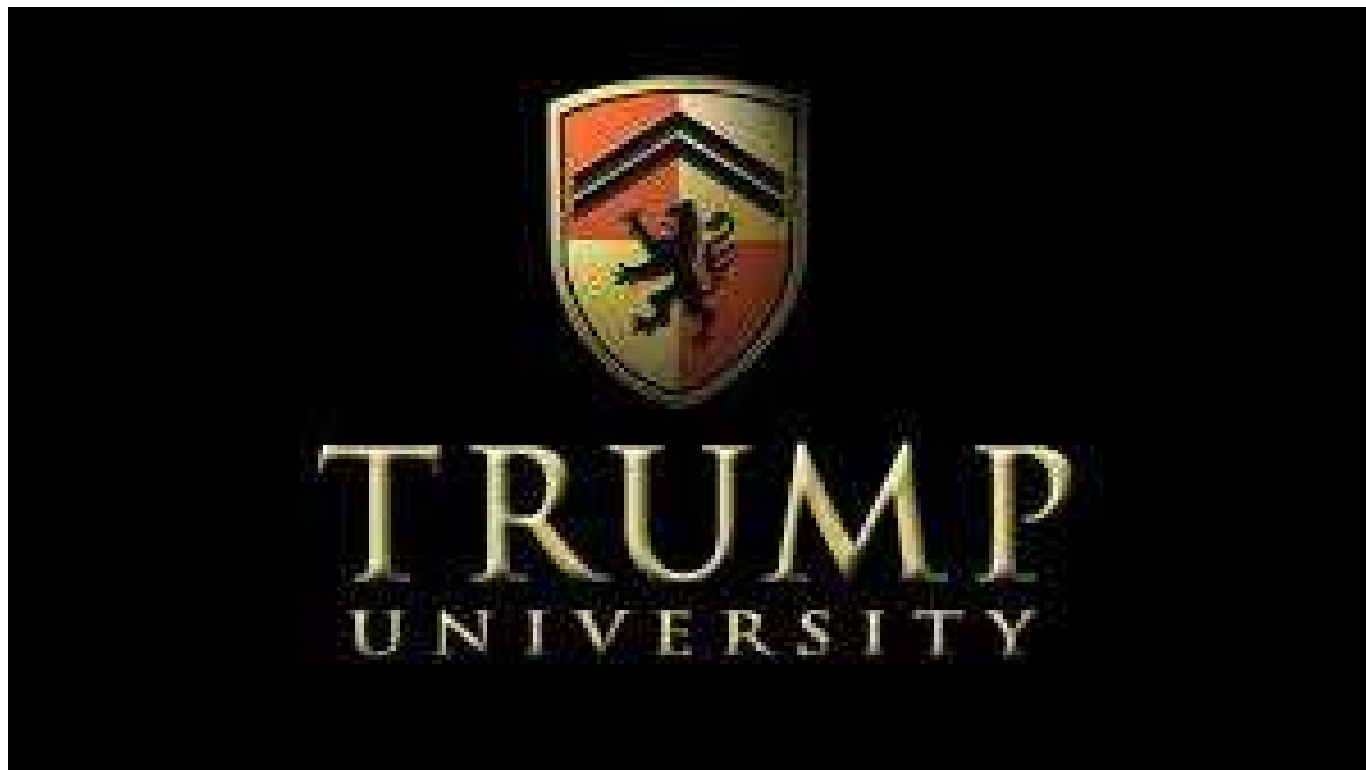
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History of the FTC Endorsement Guides



History of the FTC Endorsement Guides

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- An endorsement must always reflect the honest opinions, findings, beliefs, or experience of the endorser.

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- An endorsement may not contain any representations which would be deceptive or could not be substantiated if made directly by the advertiser.

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- Where the advertisement represents that the endorser uses the endorsed product, the endorser must use it.

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- The advertiser must disclose what the generally expected performance would be or conspicuously disclose the limited applicability of the endorser's experience.
- Expert endorsers' qualifications must give them the expertise necessary to make their endorsements.
- Material connections between the endorser and the advertiser must be disclosed.

History of the FTC Endorsement Guides



History of the FTC Endorsement Guides



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History of the FTC Endorsement Guides



History of the FTC Endorsement Guides



2023

Focuses on what “clear and conspicuous” means in digital advertising for paid influencers:

- Visual endorsements require visual disclosures – must stand out in size, contrast and location.
- Audible endorsements require audible disclosures – volume, cadence and speed.
- Both visual and audible endorsements require both visible and audible disclosures.

D • T C • M

DISCLOSURES

INFORMATION ABOUT ONLINE ADVERTISING

Federal Trade Commission Toll-free 1.877.FTC.HELP For the Consumer www.ftc.gov

<https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-issues-guidelines-internet-advertising/0005dotcomstaffreport.pdf>.

**Don't use this for
endorsement disclosures.**

Use This Instead:



https://www.ftc.gov/system/files/documents/plain-language/1001a-influencer-guide-508_1.pdf

FTC's Disclosure Method Recommendations

- Disclosures must be in the posts – not on links like “About Me” or profile pages.
- Superimpose disclosures over pic posts and make sure viewers have time to see them.
- For vid posts, make the disclosures audibly and also have them appear in writing on the vids because folks don't always have the volume on.
- For live streams, disclose until your nose bleeds.



FTC'S Content Recommendations – Simple and Clear

“Thanks to Acme for the free product” is good.



“advertisement,” “ad,” or “sponsored” are good.



“AcmePartner” or “AcmeAmbassador” are okay.



“sp”, “spon”, or “collab” are bad.



Platform disclosure tools are often not good enough.



What About Hashtags?



#instagood #instafeel #love
#fashion #ad #photooftheday
#model #beautiful #modeling
#photoshoot #sexy

Bengoechea v. Roadget Business PTE LTD. d/b/a Shein (N.D. Illinois 2025)

Good
Tala

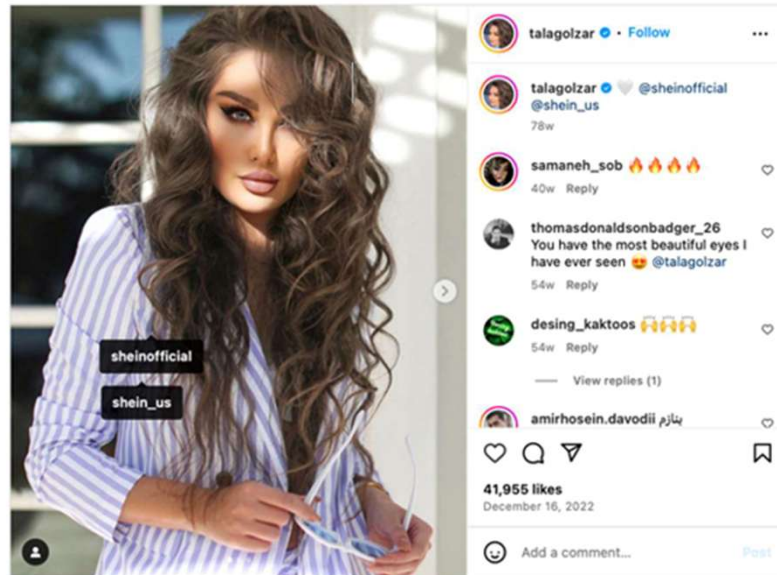


“Paid partnership”

“#ad”

Bengoechea v. Roadget Business PTE LTD. d/b/a Shein (N.D. Illinois 2025)

Bad
Tala
(allegedly)



Areas of Focus



Consumer Reviews

Deceptive AI Claims

Practical Compliance Tips

A close-up photograph of a person's hand holding a white smartphone. The person is wearing a silver metal watch on their wrist. The background is a blurred city street at night, with warm streetlights and green traffic lights visible as bokeh. The overall tone is soft and modern.

Consumer Reviews

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The Consumer-Review Rule Likely Applies to AI-Generated Content

- **Rule on Consumer Reviews & Testimonials, 16 CFR 465 et seq**
 - Prohibits: creating, selling, purchasing, or disseminating reviews / testimonials that materially misrepresent:
 - (1) The reviewer or testimonialist exists
 - (2) The reviewer or testimonialist used or otherwise had experience with the product, service, or business; or
 - (3) The reviewer's or testimonialist's experience with the product, service, or business
- Prohibits buying positive or negative consumer reviews
- Potential civil penalties of \$51,744 per violation



The Consumer-Review Rule Likely Applies to AI-Generated Content

“AI tools make it easier for bad actors to pollute the review ecosystem by generating, quickly and cheaply, large numbers of realistic but fake reviews that can then be distributed widely across multiple platforms. AI-generated reviews are covered by the final rule, which the Commission hopes will deter the use of AI for that illicit purpose.”

- 89 Fed. Reg. 68036 (Aug. 22, 2024), N.35

Can You Spot the AI Review?



No. 1 Dog Shampoo

- “As a dog owner, I am thrilled with this product. My pup has been smelling better than ever, the shedding has been reduced and his coat is shinier than ever. It’s also very easy to use and smells really nice. I recommend that everyone try this out!”

No. 2 Roofing Company

- “I am a roofer by trade and i have been using this roofing company for over two years. I have used many other roofing services in the past but this one is good enough to keep me as a client of theirs. They’re prices are really good and their personnel is very friendly.”

Can You Spot the AI Review?

No. 1

Dog St

- “As a dog owner, I can smell a fake review from a mile away.”

BOTH ARE AI

- “I have been using this roofing company for over 10 years. I have used many other roofing services in the past but this one was good enough to keep me as a client of theirs. They're prices are very good and their personnel is very friendly.”

FTC Enforcement



- **FTC v. Rytr – Dec. 2024:** AI “writing assistant” with “Testimonial & Review” feature.
 - Users pick tone: “formal,” “cautionary,” “critical,” etc.
 - Users pick level of creativity: “optimal,” “low,” “max,” etc.
 - Allegedly generated “detailed reviews that contain specific, often material details that have no relation to the user’s input” and thus “would almost certainly be false.”
 - 24 subscribers generated over 10,000 reviews; 114 subscribers generated over 1,000 reviews.
 - Rytr banned from offering any “Review or Testimonial Generation Service”
- **Not enforced under the Consumer Reviews Rule but Section 5 of FTC Act**
 - Appears to be no enforcement actions yet under the new rule

Consumer Reviews – Takeaways



- **Likely Prohibited:**
 - Using AI to write or create false / misleading reviews or testimonials
 - Knowingly purchasing and/or disseminating AI-generated reviews that are false or misleading
 - The standard is “knows or should have known”
 - May apply to third-party content from ad / PR / web dev firms and other sources
 - “Red flags” – reviews appear too quickly, large number in short time, wrong product

Consumer Reviews – Takeaways



- **Likely not prohibited:**
 - Leveraging AI when creating real testimonials
 - Ex: marketing team uses AI for the first draft of a real testimonial after receiving input from the testimonialist.
 - Consumers may use AI to write reviews
 - Ex: real consumer uses ChatGPT to write their review
- **Exceptions to the Consumer Rule**
 - **Generalized solicitations.** Businesses may make “generalized solicitations” to purchasers for reviews or testimonials (ex: email blast soliciting reviews)
 - **Consumer review hosting** (letting consumers post reviews to your website). businesses not liable if consumer posts fake review to their website or third-party website without the business’s knowledge.

A close-up, slightly blurred photograph of a person's hands typing on a laptop keyboard. The person is wearing a dark long-sleeved shirt and a smartwatch on their left wrist. The laptop is silver and sits on a dark wooden desk. In the background, there is a cup of coffee and a vase with green plants, all out of focus. The overall lighting is soft and natural.

Deceptive AI Claims

FTC AI Enforcement Actions

- **“Operation AI Comply”**
 - “Kicked off” with
 - Five enforcement actions filed 9/25/24
 - At least two more in 2025
 - Bipartisan – most actions 5-0 commission vote
- No enforcement actions under the Consumer Review Rule



FTC AI Enforcement Actions

Workado

- “AI Content Detector” claimed to detect AI generated content with 98.3% accuracy
- AI model was created by undergraduates in Norway for their thesis; actually had 53.2% accuracy

DoNotPay

- “World’s First Robot Lawyer” – create legal docs in minutes; analyze website for legal violations
- Model trained on chatbot software and ChatGPT; NOT on database of fed. and state laws, regs, etc.

AirAI

- “Conversational AI” sales and customer-support reps.
- AI couldn’t perform basic functions like placing outbound calls, recording email addresses, or accurately responding to questions

Deceptive AI Claims - Takeaways

