

FTC Guidelines on Endorsements and Testimonials- News Release

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FTC News Release

<http://www.ftc.gov/opa/2009/10/endortest.shtm>

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FTC Publishes Final Guides Governing Endorsements, Testimonials

Changes Affect Testimonial Advertisements, Bloggers, Celebrity Endorsements

The Federal Trade Commission today announced that it has approved final revisions to the guidance it gives to advertisers on how to keep their endorsement and testimonial ads in line with the FTC Act.

The notice incorporates several changes to the FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising, which address endorsements by consumers, experts, organizations, and celebrities, as well as the disclosure of important connections between advertisers and endorsers. The Guides were last updated in 1980.

Under the revised Guides, advertisements that feature a consumer and convey his or her experience with a product or service as typical when that is not the case will be required to clearly disclose the results that consumers can generally expect. In contrast to the 1980 version of the Guides – which allowed advertisers to describe unusual results in a testimonial as long as they included a disclaimer such as “results not typical” – the revised Guides no longer contain this safe harbor.

The revised Guides also add new examples to illustrate the long standing principle that “material connections” (sometimes payments or free products) between advertisers and endorsers – connections that consumers would not expect – must be disclosed. These examples address what constitutes an endorsement when the message is conveyed by bloggers or other “word-of-mouth” marketers. The revised Guides specify that while decisions will be reached on a case-by-case basis, the post of a blogger who receives cash or in-kind payment to review a product is considered an endorsement. Thus, bloggers who make an endorsement must disclose the material connections they share with the seller of the product or service. Likewise, if a company refers in an advertisement to the findings of a research organization that conducted research sponsored by the company, the advertisement must disclose the connection between the advertiser and the research organization. And a paid endorsement – like any other advertisement – is deceptive if it makes false or misleading claims.

Celebrity endorsers also are addressed in the revised Guides. While the 1980 Guides did not explicitly state that endorsers as well as advertisers could be liable under the FTC Act for statements they make in an endorsement, the revised Guides reflect Commission case law and clearly state that both advertisers and endorsers may be liable for false or unsubstantiated claims made in an endorsement – or for failure to disclose material connections between the advertiser and endorsers. The revised Guides also make it clear that celebrities have a duty to disclose their relationships with advertisers when making endorsements outside the context of traditional ads, such as on talk shows or in social media.

The Guides are administrative interpretations of the law intended to help advertisers comply with the Federal Trade Commission Act; they are not binding law themselves. In any law enforcement action challenging the allegedly deceptive use of testimonials or endorsements, the Commission would have the burden of proving that the challenged conduct violates the FTC Act.

The Commission vote approving issuance of the Federal Register notice detailing the changes was 4-0. The notice will be published in the Federal Register shortly, and is available now on the FTC's Web site as a link to this press release.

Links to Resources:

FTC Guidelines Endorsements and Testimonials: Detailed Analysis

<http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC%20GuidelinesAnalysis.html>

FTC News Release on Endorsements and Testimonials

<http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC%20GuidelinesNewsRelease.html>

FTC Complete Guidelines Release

[http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC Complete Guidelines Endorsements Testimonials.pdf](http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC%20Complete%20Guidelines%20Endorsements%20Testimonials.pdf)

FTC Short Version Guidelines Release

[http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC Short Version Guidelines.pdf](http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC%20Short%20Version%20Guidelines.pdf)

FTC Examples of Material Connection

<http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC%20GuidelinesMaterialConnections.html>

FTC Regulation of Advertising

<http://mlmlegal.com/FTC%20Guidelines%20Testimonials/FTC%20GuidelinesRegulationOfAdvertising.html>



On any given day you can catch Jeffrey Babener, editor of www.mlmlegal.com, lecturing on Network Marketing at the University of Texas or the University of Illinois, addressing thousands of distributors in Los Angeles, Bangkok, Tokyo and Russia, or writing a new book on Network Marketing, an article for Entrepreneur Magazine or a chapter for a University textbook. Over two decades he has served as marketing and legal advisor to some of the world's largest direct selling companies, the likes of Avon, Nikken, Shaklee, Tupperware, Prepaid Legal, Longaberger, Melaleuca, Discovery Toys, Usana, Amazon Herb, NuSkin, Cell Tech, Sunrider.... and he has provided counsel to the most successful telecom network marketing companies...Excel, ACN, World Connect, ITI, Acceris, AOL Select and Network 2000. An active spokesperson for the industry, he has assisted in new legislation and served on the Lawyer's Council, Government Relations Committee and Internet Task Force of the Direct Selling Association (DSA) as well as serving as General Counsel for the Multilevel Marketing International Association. He is an MLM attorney supplier member of the DSA and has served as legal counsel and MLM consultant on MLM law issues for many DSA companies. He is author of multiple books, including, Network Marketing: What You Should Know, Network Marketer's Guide To Success, Tax Guide for MLM/Direct Sellers, Starting and Running the Successful MLM Company, The MLM Corporate Handbook and Window of Opportunity. He is author of countless articles on network

marketing, many of which can be found at www.mlmlegal.com where he is the editor. You will see his articles and interviews in such publications as Money, Atlantic Monthly, Success, Entrepreneur, Business Startups, Home Office Computing, Inc., Money Makers Monthly, etc. He has been chairman of numerous industry conference series, including, Starting and Running the Successful MLM Company, The MLM Entrepreneur Series and The MLM Masters series. He has served as the close advisor to scores of MLM Companies and their distributors, comprising millions of distributors and billions of dollars in sales. Mr. Babener is a graduate of the University of Southern California Law School, where he served as editor of the USC Law Review. After an appointment to be an advisor law clerk to a U.S. Federal Judge, he went on to become a member of the California and Oregon State Bar, where he has also served as chairman of the Oregon State Bar Committee on Judicial Administration. He has exclusively practiced in the area of direct selling for over 20 years. A Regulatory Update for MLM, Direct Selling, Network Marketing, Direct Sales, Party Plan Independent Distributors and Companies