

...continued from front page

the business without disclosing their relationship. There's some nuance here in terms of what management solicited or was aware of, but basically your mom shouldn't be out there posting glowing reviews of your products without letting people know she's your #ProudParent.

4. Watch your "celebrity" testimonials: Businesses are prohibited from writing or creating reviews that misrepresent a reviewer's experience with a product or service. Think about hiring a radio DJ or podcaster to plug your product, for example. Be careful with marketing scripts that would imply they've used (and liked) the product if they haven't.
5. Handle negative reviews with care: Spot a bad review online? You can absolutely reach out to a disgruntled customer to try and make things right. But if your "fix" is tied to a condition that they revise or remove their bad review, that's crossing the line. The FTC's stance is clear: you can't bully or incentivize people to clean up their reviews.

Other "no fake reviews" rules include prohibitions against incentivizing reviewers contingent on specific feedback, creating a separate website that appears to be an independent review site, and buying fake social media indicators such as followers, friends, views or likes.

The penalties for breaking these rules are significant. A single instance of a deceptive review could result in a fine of over \$51,000 — potentially multiplied on a "per view" basis.

What companies should do now

The bottom line is that this new rule ramps up enforcement risks. To stay on the right side of the FTC, companies should understand the nuances of the new rules and update policies accordingly. Ensure that all employees, endorsers and marketing teams are trained on what constitutes a fake review or testimonial under the new rule.

Additionally, if you display reviews on your website, make sure your content moderation is transparent and fair across the board. And ensure full disclosure on all endorsements, no matter how small the relationship.

As always, if you're unsure whether your review practices comply with the new FTC rule, it's a good idea to consult legal counsel. ■

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HOW THE FTC'S NEW
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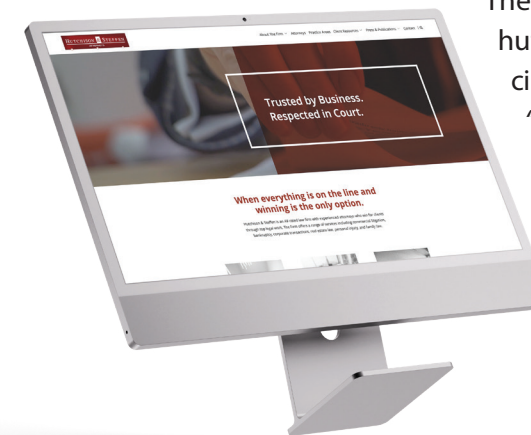
Legal Matters

FALL 2025

FROM THE DESK OF Mark A. Hutchison



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How the FTC's new
rule on fake reviews
might apply to you.

When the Federal Trade Commission's new rule on fake reviews went into effect in October 2024, many businesses might have shrugged it off, thinking, "Well, we're not creating fake reviews — this doesn't apply to us."

But here's the catch: The rule goes beyond punishing blatant fakes. It digs into practices that even well-intentioned companies might not realize are walking the line.

What's new, what's the same, and what's surprising

The rule officially bans writing, buying and selling fake reviews, which most companies already know is a big no-no. What's significant is how the rule defines what's considered "false or misleading" and the costly new fines attached. Here are a few ways companies could unintentionally run afoul of the new rule:

1. Suppressing negative reviews: If you host reviews on your own website (in a way that suggests you're representing most/all submitted reviews), you can't suppress the negative ones. Even with a content moderation policy in place, your process must be neutral and consistently applied. For example, that means you can't take down a negative review because it uses profanity but keep up a positive post with that same language.
2. Endorsements and influencers need full disclosure: If you're paying or incentivizing influencers to hype your brand, they need to make proper disclosures. The rule requires clear and conspicuous disclosures about any relationship between the reviewer and the company.
3. That means your mom, too: Similarly, the rule prohibits a company's officers, managers, immediate relatives and employees from writing reviews about

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