

**FEDERAL TRADE COMMISSION
16 CFR Part 255**

Guides Concerning the Use of Endorsements and Testimonials in Advertising

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This document includes only the text of the Revised Endorsement and Testimonial Guides. To learn more, read the Federal Register Notice at www.ftc.gov/opa/2009/10/endortest.shtm.

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§ 255.0 Purpose and definitions.

(a) The Guides in this part represent administrative interpretations of laws enforced by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. Specifically, the Guides address the application of Section 5 of the FTC Act (15 U.S.C. 45) to the use of endorsements and testimonials in advertising. The Guides provide the basis for voluntary compliance with the law by advertisers and endorsers. Practices

Example 1: A film critic's review of a movie is excerpted in an advertisement. When so used, the review meets the definition of an endorsement because it is viewed by readers as a statement of the critic's own opinions and not those of the film producer, distributor, or exhibitor. Any alteration in or quotation from the text of the review that does not fairly reflect its substance would be a violation of the standards set by this part because it would distort the endorser's opinion. [See § 255.1(b).]

Example 2: A TV commercial depicts two women in a supermarket buying a laundry detergent. The women are not identified outside the context of the advertisement. One comments to the other how clean her brand makes her family's clothes, and the other then comments that she will try it because she has not been fully satisfied with her own brand. This obvious fictional dramatization of a real life situation would not be an endorsement.

Example 3: In an advertisement for a pain remedy, an announcer who is not familiar to consumers except as a spokesman for the advertising drug company praises the drug's ability to deliver fast and lasting pain relief. He purports to speak, not on the basis of his own opinions, but rather in the place of and on behalf of the drug company. The announcer's statements would not be considered an endorsement.

Example 4: A manufacturer of automobile tires hires a well-known professional automobile racing driver to deliver its advertising message. [See § 255.1(b).]

and vegetables thrown at her during her performances. The comedian and baseball player are not likely to be deemed endorsers because consumers will likely realize that the individuals are not expressing their own views.

Example 8: A consumer who regularly purchases a particular brand of dog food decides one day to purchase a new, more expensive brand made by the same manufacturer. She writes in her personal blog that the change in diet has made her dog's fur noticeably softer and shinier, and that in her opinion, the new food definitely is worth the extra money. This posting would not be deemed an endorsement under the Guides.

Assume that rather than purchase the dog food with her own money, the consumer gets it for free because the store routinely tracks her purchases and its computer has generated a coupon for a free trial bag of this new brand. Again, her posting would not be deemed an endorsement under the Guides.

Assume now that the consumer joins a network marketing program under which she periodically receives various products about which she can write reviews if she wants to do so. If she receives a free bag of the new dog food through this program, her positive review would be considered an endorsement under the Guides.

§ 255.1 General considerations.

(a) Endorsements must reflect the honest opinions, findings, beliefs, or experience of the endorser. Furthermore, an endorsement may not convey any express or implied representation that would be deceptive if made directly by the advertiser. [See §§ 255.2(a) and (b) regarding substantiation of representations conveyed by consumer endorsements.]

(b) The endorsement message need not be phrased in the exact words of the endorser, unless the advertisement affirmatively so represents. However, the endorsement may not be presented out of context or reworded so as to distort in any way the endorser's opinion or experience with the product. An advertiser may use an endorsement of an expert or celebrity only so long as it has good reason to believe that the endorser continues to subscribe to the views presented. An advertiser may satisfy this obligation by securing the endorser's views at reasonable intervals where reasonableness will be determined by such factors as new information on the performance or effectiveness of the product, a material alteration in the product, changes in the performance of competitors' products, and the advertiser's contract commitments.

(c) When the advertisement represents that the endorser uses the endorsed product, the endorser must have been a bona fide user of it at the time the endorsement was given. Additionally, the advertiser may continue to run the advertisement only so long as it has good reason to believe that the endorser remains a bona fide user of the product. [See § 255.1(b) regarding the "good reason to believe" requirement.]

(d) Advertisers are subject to liability for false or unsubstantiated statements made through endorsements, or for failing to disclose material connections between themselves and their endorsers [see § 255.5]. Endorsers also may be liable for statements made in the course of their endorsements.

Example 1: A building contractor states in an advertisement that he uses the advertiser's exterior house paint because of its remarkable quick drying property

¹ The Commission tested the communication of advertisements containing testimonials

(c) Advertisements presenting endorsements by what are represented, directly or by implication, to be “actual consumers” should utilize actual consumers in both the audio and video, or clearly and conspicuously disclose that the persons in such advertisements are not actual consumers.

experience, and such a result is within the range that would be generally experienced by an extremely overweight individual who consumed WeightAway shakes, only ate raw vegetables, and exercised as the endorser did. Because the endorser clearly describes the limited and truly exceptional circumstances under which she achieved her results, the ad is not likely to convey that consumers who weigh substantially less or use WeightAway under less extreme circumstances will lose 110 pounds in six months. (If the advertisement simply says that the endorser lost 110 pounds in six months using WeightAway together with diet and exercise, however, this description would not adequately alert consumers to the truly remarkable circumstances leading to her weight loss.) The advertiser must have substantiation, however, for any performance claims conveyed by the endorsement (*e.g.*, that WeightAway is an effective w

If the motion picture studio had approached these individuals outside the theater and offered them free tickets if they would talk about the movie on camera afterwards, that arrangement should be clearly and conspicuously disclosed. [See § 255.5.]

§ 255.3 Expert endorsements.

(a) Whenever an advertisement represents, directly or by implication, that the endorser is an expert with respect to the endorsement message, then the endorser's qualifications must in fact give the endorser the expertise that he or she is represented as possessing with respect to the endorsement.

(b) Although the expert may, in endorsing a product, take into account factors not within his or her expertise (*e.g.*, matters of taste or price), the endorsement must be supported by an actual exercise of that expertise in evaluating product features or characteristics with respect to which he or she is expert and which are relevant to an ordinary consumer's use of or experience with the product and are available to the ordinary consumer. This evaluation must have included an examination or testing of the product at least as extensive as someone with the same degree of expertise would normally need to conduct in order to support the conclusions presented in the endorsement. To the extent that the advertisement implies that the endorsement was based upon a comparison, such comparison must have been included in the expert's evaluation; and as a result of such comparison, the expert must have concluded that, with respect to those features on which he or she is expert and which are relevant and available to an ordinary consumer, the endorsed product is at least equal overall to the competitors' products. Moreover, where the net impression created by the endorsement is that the advertised product is superior to other products with respect to any such feature or features, then the expert must in fact have found such superiority. [See § 255.1(d) regarding the liability of endorsers.]

Example 1: An endorsement of a particular automobile by one described as an "engineer" implies that the endorser's professional training and experience are such that he is well acquainted with the design and performance of automobiles. If the endorser's field is, for example, chemical engineering, the endorsement would be deceptive.

Example 2: An endorser of a hearing aid is simply referred to as "Doctor"

(*e.g.*, if it was established and operated by an automotive parts manufacturer), the endorsement would be deceptive. Even if the American Institute of Science is an independent bona fide expert testing organization, the endorsement may nevertheless be deceptive unless the Institute has conducted valid scientific tests of the advertised products and the test results support the endorsement message.

Example 4: A manufacturer of a non-prescription drug product represents that its product has been

expertise in evaluating the product under § 255.3 (expert endorsements), it must utilize an expert or experts recognized as such by the organization or standards previously adopted by the organization and suitable for judging the relevant merits of such products. [See § 255.1(d) regarding the liability of endorsers.]

Example: A mattress seller advertises that its product is endorsed by a chiropractic association. Because the association would be regarded as expert with respect to judging mattresses, its endorsement must be supported by an evaluation by an expert or experts recognized as such by the organization, or by compliance with standards previously adopted by the organization and aimed at measuring the performance of mattresses in general and not designed with the unique features of the advertised mattress in mind.

§ 255.5 Disclosure of material connections.

When there exists a connection between the endorser and the seller of the advertised product that might materially affect the endorser's ability to evaluate the product objectively, the endorser must disclose the nature of the connection.

better than she used to, ever since having laser vision correction surgery at a clinic that she identifies by name. She continues talking about the ease of the procedure, the kindness of the clinic's doctors, her speedy recovery, and how she can now engage in a variety of activities without glasses, including driving at night. The athlete does not disclose that, even though she does not appear in commercials for the clinic, she has a contractual relationship with it, and her contract pays her for speaking publicly about her surgery when she can do so. Consumers might not realize that a celebrity discussing a medical procedure in a television interview has been paid for doing so, and knowledge of such payments would likely affect the weight or credibility consumers give to the celebrity's endorsement. Without a clear and conspicuous disclosure that the athlete has been engaged as a spokesperson for the clinic, this endorsement is likely to be deceptive. Furthermore, if consumers are likely to take away from her story that her experience was typical of those who undergo the same procedure at the clinic, the advertiser must have substantiation for that claim.

Assume that instead of speaking about the clinic in a television interview, the tennis player touts the results of her surgery – mentioning the clinic by name – on a social networking site that allows her fans to read in real time what is happening in her life. Given the nature of the medium in which her endorsement is disseminated, consumers might not realize that she is a paid endorser. Because that information might affect the weight consumers give to her endorsement, her relationship with the clinic should be disclosed.

Assume that during that same television interview, the tennis player is wearing clothes bearing the insignia of an athletic wear company with whom she also has an endorsement contract. Although this contract requires that she wear the company's clothes not only on the court but also in public appearances, when possible, she does not mention them or the company during her appearance on the show. No disclosure is required because no representation is being made about the clothes in this context.

Example 4: An ad for an anti-snoring product features a phy

Assume, in the alternative, that the advertiser had not posted a sign on the door of the restaurant, but had informed all interviewed customers of the “hidden camera” only after interviews were completed and the customers had no reason to know or believe that their response was being recorded for use in an advertisement. Even if patrons were also told that they would be paid for allowing the use of their opinions in advertising, these facts need not be disclosed.

Example 6: An infomercial producer wants to include consumer endorsements for an automotive additive product featured in her commercial, but because the product has not yet been sold, there are no consumer users. The producer’s staff reviews the profiles of individuals interested in working as “extras” in commercials and identifies several who are interested in automobiles. The extras are asked to use the product for several weeks and then report back to the producer. They are told that if they are selected to endorse the product in the producer’s infomercial, they will receive a small payment. Viewers would not expect that these “consumer endorsers” are actors who were asked to use the product so that they could appear in the commercial or that they were compensated. Because the advertisement fails to disclose these facts, it is deceptive.

Example 7: A college student who has earned a reputation as a video game expert maintains a personal weblog or “blog” where he posts entries about his gaming experiences. Readers of his blog frequently seek his opinions about video game hardware and software. As it has done in the past, the manufacturer of a newly released video game system sends the student a free copy of the system and asks him to write about it on his blog. He tests the new gaming system and writes a favorable review. Because his review is disseminated via a form