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UNITED STATES OF AMERICA  
Federal Trade Commission  
WASHINGTON, D.C. 20580

**STATEMENT OF COMMISSIONER ROHIT CHOPRA  
JOINED BY COMMISSIONER REBECCA KELLY SLAUGHTER**  
In the Matter of Sunday Riley  
Commission File No. 1923008  
October 21, 2019

### Summary

- Fake reviews distort our markets by rewarding bad actors and harming honest companies. The problem is growing, and the Federal Trade Commission should attack it.
- Regulators around the world are concerned about fake review fraud. But by proposing a no-money, no-fault order for an unambiguous violation of law, this action does little to address the epidemic of fake reviews online.
- Going forward, the FTC should seek monetary consequences for fake review fraud, even if the exact level of ill-gotten gains is difficult to measure. The agency should also comprehensively analyze the problem of fake reviews, including whether or not e-commerce firms have the right incentives to police their platforms.

### False Advertising and FakeReview Fraud

When it comes to searching for a restaurant, booking a hotel, or shopping for a product online, consumers rely on that early, positive signals can

effect,

<sup>3</sup> leading many more consumers to purchase a product.



## Commission's Proposed No-Money, No-Fault Settlement

Today's proposed settlement includes no redress, no disgorgement of ill gains, no notice to consumers, and no admission of wrongdoing. Sunday Riley's CEO have clearly broken the law, and the Commission has ordered that they not break the law again.

Unfortunately, the proposed settlement is unlikely to deter other would-be wrongdoers. Consider the cost-benefit analysis that a firm might undertake in considering whether to engage in review fraud. The potential benefits are substantial: higher ratings, more buzz, better positioning relative to competitors and higher sales. The direct costs of generating reviews are minimal, certainly far less expensive than traditional advertising. The greatest potential cost is if the wrongdoer is caught, but it is likely that the vast majority of fake review fraud goes undetected. Even fake reviews that are detected may simply be removed with no sanction against the creator.

The proposed resolution of this matter suggests that even the narrow subset of wrongdoers who are caught and attract law enforcement attention will face minimal sanctions. Sunday Riley is an unusual case. Because of a whistleblower, the fraud was exposed, and the FTC's investigation uncovered additional "smoking gun" evidence implicating other executives. It is difficult to imagine more egregious facts, yet all the Commission is imposing an order that the company and its CEO not repeat their lawbreaking.

This settlement sends the wrong message to the marketplace. Best firms may come to conclude that posting fake reviews is a viable strategy, given the proposed outcome. Honest firms, who are the biggest victims of this fraud, may be wondering if they are losing out by following the law. Consumers may come to lack confidence that reviews are truthful.

Our peer agencies around the world have tackled fake review fraud more systemically, recognizing that it constitutes not just a consumer scam but a major threat to honest competition online. The Chief Executive of the United Kingdom's Competition and Markets Authority, Andrea Coscelli, recently urged Facebook and eBay to conduct an "urgent review of their sites" and noted that fake reviews harm not only consumers but also "businesses who do the right thing."<sup>14</sup> Canada's Competition Bureau criticized fake reviews as

## Conclusion

A century ago, an appeals court sustained the FTC's finding that Sears, Roebuck & Company engaged in false advertising. The law has long recognized that false advertising is an unfair method of competition that harms both consumers and honest businesses. We must remember this when it comes to calibrating consequences for wrongdoers and comprehensively attacking the problem of fake reviews.

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