Dear Influencers: #FullDisclosure we use Instagram too. Love, The FTC - Warning letters provide guidance to influencers, celebrities and brand owners

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Instagram is now home to more than 600 million users, including many popular brands, celebrities, online influencers, famous dogs, regular people and regular dogs (full disclosure this regular dog is mine). As its popularity has grown, especially with advertisers, regulators are taking a closer look to ensure that brands and their hired hands are complying with traditional truth-in-advertising principles online. Around this same time last year, we posted about the Federal Trade Commission's settlement with Lord & Taylor over charges that the retailer allegedly deceived consumers through a native advertising campaign run on Instagram and an online fashion magazine in March of 2015. That was the FTC's first foray into native advertising in social media…and they are back at it again.

On Wednesday, the FTC announced that the staff had recently sent more than 90 letters to celebrities, athletes, other influencers as well as the brand owners for whom they post on Instagram. Since the Lord & Taylor case, the FTC has stressed that primary responsibility for compliance falls on advertisers, and this may explain why no influencers were named as defendants in prior cases. But as we suggested on the blog last year, influencers may not be spared in the future.

While the FTC is not willing to share any of the letters it sent to specific influencers or brands, it did post sample letters, one for celebrities, athletes and other influencers and another for marketers. Both letters stress that influencers and brands alike should look to the FTC's Endorsement Guides and its companion publication The FTC's Endorsement Guides: What People Are Asking before posting on Instagram:

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> The FTC's Endorsement Guides state that if there is a "material connection" between an endorser and the marketer of a product – in other words, a connection that might affect the weight or credibility that consumers give the endorsement – that connection should be clearly and conspicuously disclosed, unless the connection is already clear from the context of the communication containing the endorsement. Material connections could consist of a business or family relationship, monetary payment, or the provision of free products to the endorser.

The keys point from this set of warning letters are nothing new and we've blogged about them here and here, but they are worth repeating because the FTC is certainly looking:

1. **Disclosures of material connections must be clear** – Don't use #sp, #partner or simply thank the brand (#thankyou[Brand]). While the FTC admits there is no one-size-fits-all solution, it suggests that #ad, #sponsored, Paid Ad or promotion should work in most situations.
2. **Disclosures must be conspicuous** – As the FTC noted in its settlement with Warner Bros over influencer posts on YouTube, disclosures must be "above the fold." On Instagram, that means in the first few lines of the post, and not at the end of a long comment or buried in the middle of a string of 15 hashtags.