

Endorsement Disclosures on the Front Burner Again at the FTC

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by Sandra Edelman



Last week, the FTC announced a Complaint and proposed settlement with two trampoline sellers, brothers Sonny and Bobby Le. The Les sold Infinity and Olympus Pro brand trampolines through three websites that touted endorsements of these two brands, while criticizing the qualities of competitive products. The endorsements were conveyed through the use of the Trampoline Safety of America logo (a group described as independent trampoline professionals) with a banner trumpeting “Trampoline of

the Year” and the publication of accolades of safety and reliability by the Bureau of Trampoline Review (represented as an independent research organization). The Les’ websites also featured a blog post from a “Trampoline Mom” endorsing the brands sold by the brothers and a YouTube comment recommending the Infinity product as the “best ever owned” while describing the competitor’s product as “crap”.

As the FTC revealed, and coming under the heading of “What were they thinking?”, the Le brothers were in fact behind all of these purported independent organizations and blog and YouTube comments. Not surprisingly, the FTC found the failure to disclose the material connections associated with all of the challenged endorsements constituted false and misleading advertising for the trampoline products. While most companies would not be as brazen as the Le brothers, the published complaint and proposed consent order is a reminder that the FTC continues to scrutinize online endorsements and will take action when there is a failure to make adequate disclosure that endorsing

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individuals or organizations are affiliated with or supported financially by the product marketers.

The FTC took the opportunity of its press release about the matter to remind marketers that:

- Advertisers should not create fake review sites, use misleading third-party endorsements or seals or tout products on independent sites without disclosing that the recommendations originate with individuals connected to the company.
- Material connections between an advertiser and a reviewer must be clearly and conspicuously disclosed – this principle applies to compliments for the advertiser's products as well as critiques of the competition.
- Before using reviews and endorsements to support product marketing, consult the FTC Endorsement Guides.

You can read more about FTC guidance and prior enforcement actions [here](#), [here](#), [here](#), [here](#), [here](#) and [here](#) on The TMCA.