FTC Continues to Focus on Incentivized Reviews

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Last week, we wrote about the FTC's first case involving a company's failure to post negative reviews. Just a few days later, the FTC reached a $3.5 million settlement with Hubble Contacts. Although much of the FTC's complaint in the Hubble case alleges violations of the Contact Lens Rule, the FTC also alleged that Hubble engaged in misleading practices related to consumers reviews. The latter should catch your eye, even if you don't work in the vision industry.

According to the complaint, Hubble ran a number campaigns designed to increase positive reviews on various websites. For example, in 2017, Hubble contacted certain customers and offered them a free month's supply of lenses in exchange for writing a review on the HighYa website. The next year, Hubble ran a similar campaign to increase positive reviews on a BBB website. To make matters worse, one of the positive reviews on that site was written by the company's Director of Customer Experience.

That fact pattern isn't a lot different than the ones we've seen in other FTC cases, such as the Urthbox settlement in 2019. What's particularly interesting in this case, though, is what Hubble is required to do under the settlement for future campaigns involving incentivized reviews. Among other things, Hubble must:

- Inform reviewers that they are required to disclose any incentives they receive;
- Monitor reviewers to ensure they comply with those requirements;
- Contact reviewers that don't comply; and
- Ask the review platforms to take reviews down, if the reviewers still don't comply.

These two cases suggest that the FTC is going to continue to scrutinize how companies incentivize and feature reviews and that the consequences for violating the law can be significant. (As we've noted in other posts, such as this one, these issues have also featured prominently in recent NAD cases.) If you haven't taken a close look at your practices in this area, now is a good time to do that.