

# FTC Finalizes Rule on “Fake Reviews”

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Yesterday, the Federal Trade Commission announced its final rule addressing consumer reviews and testimonials. With this rule, the Commission takes aim at “fake” reviews and testimonials by prohibiting their sale or purchase and allows the agency to seek civil penalties against “knowing” violators.

We wrote in depth about the Commission’s [notice of the proposed rulemaking](#) last summer. The final rule largely follows the previously proposed language with one notable exception discussed below. Here’s a summary of what the rule prohibits:

- Businesses are prohibited from writing or selling consumer reviews or testimonials that are from someone who doesn’t exist (such as reviews generated by AI), that are from someone who doesn’t have actual experience with the business or its products, or that misrepresent the person’s experience. The rule also prohibits businesses from purchasing or disseminating those types reviews and from procuring those types reviews from employees or their family members.
- Businesses are prohibited from offering incentives to others in exchange for writing reviews that are required to convey a particular sentiment, regardless of whether that sentiment is positive or negative, and regardless of whether that requirement is explicit or implicit.
- Businesses (and their officers and managers) are generally prohibited from writing, soliciting, or disseminating reviews and testimonials from insiders or their relatives, unless those reviews or testimonials clearly disclose the person’s material connections to the business.
- Businesses are prohibited from misrepresenting that a website or entity provides independent reviews or opinions about a category of products or services that includes a company’s own products or services.
- Businesses are prohibited from attempting to suppress negative reviews through means such as groundless threats, intimidation, or false accusations. In addition, if a business’ website suppresses reviews based on their rating or negative sentiment, the rule prohibits that business from misrepresenting that the reviews represent most or all submitted reviews.
- Everyone is prohibited from selling or buying fake indicators of social media influence, such as fake followers or views.

As we noted in our [previous post](#), the initial proposal included a provision that would have prohibited businesses from “using or repurposing a consumer review written or created for one product so that it appears to have been written or created for a substantially different product.” The FTC noted it was not immediately able to resolve a factual dispute regarding the definition of “substantially

different product” and thus decided not to finalize that provision.

Violations of the rule carry a maximum civil penalty of almost \$52,000 per violation. What constitutes a single violation is not defined, but the FTC notes that “ultimately, courts will also decide how to calculate the number of violations in a given case.” Based on a post announcing the rule, the “FTC will look to use it, when applicable, to go after those who employ these prohibited practices to hoodwink consumers and get an unfair leg up on their competitors.”