

FTC Sends Warning Letters on Disclosures

Gonzalo E. Mon

September 25, 2014

This week, the FTC [announced](#) that the agency had sent warning letters to more than 60 companies — including 20 of the 100 largest advertisers in the country — addressing how the companies make disclosures in ads. According to the letters, FTC staff “recently reviewed more than a thousand national magazine and television advertisements to identify advertisements that raise disclosure issues and to share [its] concerns with the companies responsible for the ads.”

The letters outline the FTC’s position on what it believes is required for a disclosure to be clear and conspicuous. Among other things, the letters state that “advertisers should use clear and unambiguous language and make the disclosures stand out. Consumers should be able to notice the disclosure easily; they should not have to look for it.” The FTC also discussed factors that advertisers should consider when evaluating disclosures, including where the disclosures are placed, the font size, and how well they contrast against the background.

In the warning letters, the staff identified problematic ads, recommended that advertisers review their ads to ensure that any necessary disclosures are truly “clear and conspicuous,” and asked them to notify the staff “of what actions you have taken or intend to take in response to this letter to ensure your company’s compliance with the FTC Act.” According to the FTC’s press release, the “response to staff’s letters has been extremely positive.”

If you received a letter from the FTC, you’ve likely already told the agency of what you plan to do ensure your disclosures comply with the law. If you didn’t receive a letter, you should nevertheless use this as an opportunity to review your own disclosure practices. The FTC is clearly focused on this issue, and these types of warning letters can often be a signal that enforcement lies ahead.