

FTC Settlement Provides Detailed Guidance on Influencer Campaigns

Gonzalo E. Mon

March 6, 2020

This morning, the FTC announced that Teami – a company that sells teas and skincare products – agreed to settle charges that it promoted its products using deceptive health claims and endorsements by influencers who failed to clearly disclose that they were being paid for their posts. In addition, the FTC sent letters to ten influencers detailing their obligations.

As we’ve described in [previous posts](#), influencers need to clearly disclose any connection they have to the companies whose products they endorse. Although many of Teami’s influencers – which include celebrities such as Cardi B and Jordin Sparks – did include those disclosures, consumers wouldn’t see them unless they clicked the “more” option on Instagram below the posts.

Notably, the social media policy the company provided to its influencers specifically requires the disclosures “to be seen in



the first part of your post without clicking anything else.” Despite this – and even though many of the agreements required influencers to get approval before posting – many of the posts did not comply with this policy.

The settlement addresses the company’s obligations to monitor influencers in more detail than we’ve seen in past settlements. For example, the company must communicate disclosure obligations to influencers and obtain signed acknowledgements from them. The company must also monitor compliance with its policies and take specific steps to addresses failures.

Although the settlement applies to all influencer campaigns, the requirements are more relaxed for campaigns involving a large number of influencers who don’t earn more than \$20 per month. For example, the company doesn’t have to review every single post from influencers in this category. Instead, it is enough to review posts from the top 50 influencers generating the highest level of sales in the previous month.

The letters the FTC sent to influencers highlight specific posts that failed to comply with the FTC guidelines and explain what the influencers should have done. For example, the FTC notes that the disclosures should be above the “more” button, and that they shouldn’t be buried among other hashtags. In addition, the FTC reminds influencers that they could be held personally liable for non-compliance. The recipients are required to respond to the FTC describing what they will do to comply with the law.

For more on this settlement and other influencer issues, [please sign up for our 30-minute webinar on March 24, 2020 at 12:00 PM ET.](#)

