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U.S. Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue NW
Suite CC-5610 (Annex J)
Washington, DC 20580

Submitted electronically

Re: Comments on Reviews and Endorsements ANPR, P214504

Deceptive and fake online reviews have become a growing problem in the marketplace. Various industry observers have found that 30 to 40 percent of online reviews are concocted or are in some way not genuine.[1] This is a problem that grew during the pandemic when online shopping skyrocketed.

We at U.S. Public Interest Research Group support rulemaking by the Federal Trade Commission to address deceptive or unfair uses of reviews and endorsements.

The FTC's mission is to protect consumers from deceptive or unfair business practices. Lies in black and white certainly qualify as deceptive. Research by Uberall in 2021 in a report titled The State of Online Review Fraud[2] analyzed 4 million local business

1 https://www.chicagotribune.com/business/ct-biz-amazon-fake-reviews-unreliable-20201020-lfbjdq25azfdpa3iz6hn6zvtwq-story.html

https://www.prnewswire.com/news-releases/more-than-30-percent-of-online-customer-reviews-deemed-fake-with-the-problem-expected-to-hit-an-all-time-high-this-holiday-shopping-season-301426512.html

https://www.pcmag.com/news/39-percent-of-online-reviews-are-totally-unreliable

2 https://join.momentfeed.com/hubfs/2021%20Fake%20Reviews/FakeReviews_Report.pdf

reviews on various online platforms. Among the findings: Nearly 90 percent of online consumers rely at least in part on reviews before buying a product or choosing a service.

Clearly, consumers have no way of knowing for certain which reviews are legitimate and which are fake.

Not only does this harm consumers who are trying to make informed buying decisions, fake reviews also hurt honest businesses who make sure their online reviews are genuine. When people lose confidence in reviews, legitimate positive reviews don't mean as much. So consumers lose. Honest businesses lose. Dishonest businesses win.

We see five primary types of deceptive reviews:

1. The outright fake review, which could be written by the company itself or someone else, who may in fact be getting paid to fabricate a review.
2. A review written by a consumer who received a product at no charge, and the consumer writes a positive review without mentioning they got the item or service free. There may be an unwritten understanding that it was a quid pro quo.
3. Negative reviews on a site generated by competitors, or at a competitor's direction.
4. The absence of negative reviews, when a company suppresses unflattering reviews while playing up positive reviews.
5. Reviews or endorsements provided by someone in exchange for social media followers or something of similar value, or endorsements provided by influencers who received compensation in exchange for their testimonial, without the arrangement being disclosed.

We also see other unfair practices that harm consumers, including the following:

1. The practice of making threats to or imposing monetary penalties on consumers who post negative reviews. The Consumer Review Fairness Act of 2016 gave the FTC certain authorities to take action against companies imposing non-disparagement clauses in form contracts.
2. The misrepresentation that a website or a certification or a seal is independent when, in fact, it is a creature controlled by the company, as the FTC points out in its ANPR (see Footnote 7).[3]

[3] https://www.regulations.gov/document/FTC-2022-0070-0001 (See Footnote 7.)

All of these poison the marketplace. Online shoppers need to be protected just like shoppers at brick and mortar stores.

It's been more than a year since the FTC put hundreds of companies on notice[4] that if they used fake reviews to deceive potential customers, then they could be fined up to nearly $44,000 per violation.

It's unclear whether that has deterred unethical behavior. Just a few months after that warning, the FTC filed its first case involving a company's alleged quest to hide negative customer reviews. In the October 2021 case, Fashion Nova, LCC[5] was required to pay $4.2 million as part of a settlement after the FTC said the retailer suppressed "hundreds of thousands" of negative reviews of its products and instead allowed only four- and five-star reviews over a period of four years.

Going forward, the FTC should investigate complaints, monitor merchant and independent review sites and step up enforcement under current authorities.

While the FTC and consumer advocates can and should seek to educate consumers and businesses more about the dangers of fake reviews, that won't replace a safer online marketplace. Stricter rules and enforcement are needed to better protect consumers.

U.S. PIRG Education Fund is an independent, non-partisan group that works for consumers and the public interest. Through research, public education and outreach, we serve as counterweights to the influence of powerful special interests that threaten our health, safety or well-being. U.S. PIRG Education Fund is part of The Public Interest Network, which operates and supports organizations committed to a shared vision of a better world and a strategic approach to social change.

Respectfully submitted,

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4 https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-puts-hundreds-businesses-notice-about-fake-reviews-other-misleading-endorsements

5 https://www.ftc.gov/news-events/press-releases/2022/01/fashion-nova-will-pay-42-million-part-settlement-ftc-allegations