

From: Jennifer West
Project Manager

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Dear Sir/Madam,

An open letter to marketing departments, marketing agencies and their clients

You may be aware that the Competition and Markets Authority (CMA) has been investigating the use of online reviews and endorsements to ensure that they are being used in line with consumer protection law. More detail can be found on the [case page](#).

Online reviews, and endorsements, including those made by bloggers or on social media, have become part of everyday life and significantly influence people's buying decisions.

This letter addresses our concerns in the following two areas:

- (i) clearly labelling or identifying paid promotions; and
- (ii) writing, commissioning and publishing fake reviews.

Online endorsements – paid promotions

The CMA has recently concluded an investigation into the failure of three businesses to clearly identify where they had paid bloggers or online publications to feature particular products in their blogs and articles (paid promotions). You can read more about the investigation on the CMA's [webpages](#).

The use of editorial content¹ in the media to promote a product where a trader has paid (financially or otherwise) for the promotion, without making this clear to the consumer, is unlawful and may lead to enforcement action.

¹ 'Editorial content' includes, but is not limited to, articles, blog posts, video blogs, commentary, Tweets and advertorials in any medium, including online and digital channels.

What does this mean for you?

Businesses that pay for promotions in articles or blogs should ensure this has been made clear to readers/viewers, for example by:

- clearly identifying or labelling paid promotions;
- providing clear instructions to marketing agencies and anyone else involved in the publication of paid promotions on how to implement this; and
- ensuring that their policies on paid promotions reflect the requirements of consumer protection law and that their marketing staff are aware of the requirements of the law.

Marketing agencies and other intermediaries which arrange for paid promotions to be published should ensure that they are clearly identifiable by readers/viewers, for example by:

- instructing online publications and bloggers to clearly label or identify paid promotions;
- ensuring their policies reflect the requirements of consumer protection law and that their staff are aware of the requirements of the law; and
- turning down requests from businesses to arrange paid promotions which are not clearly labelled or identified.

It is our view that everyone involved in online endorsements is responsible for ensuring that paid promotions are clearly labelled or identified. This includes people who instruct, facilitate, arrange or publish paid promotions. This content is read by consumers, irrespective of why it was created, who may rely on the information to inform their purchasing decisions. If it is not correctly labelled or identified, consumers may be misled into thinking it represents the author's genuine opinion when a business has in fact paid to influence the content.²

The CMA has also produced a [brief guide](#) for businesses summarising how to comply with consumer protection law in relation to online endorsements.

² Businesses and marketing / media agencies should also comply with the [UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing](#), in particular Section 2 on the Recognition of Marketing Communications (including any subsequent amendments). The Advertising Standards Agency (ASA) has provided guidance on labelling, including in social media. The Committee of Advertising Practice (CAP), the ASA's sister body, also has a Copy Advice Team that advertisers and publishers can use if they want expert guidance on the CAP Code rules.

Fake reviews

The CMA has also recently concluded an investigation into fake online reviews posted by a search engine optimisation and online marketing company on behalf of its clients. You can read more about the investigation on the CMA's [webpages](#).

Writing or commissioning a fake review – in relation your own products or someone else's – is a breach of consumer protection law and may lead to civil or even criminal action.

What does this mean for you?

Businesses, and anyone acting on their behalf, should:

- not offer inducements to customers in return for writing positive reviews about their businesses; and
- not pretend to be a customer and write fake reviews about their own or other businesses' products.

The CMA has also produced a [brief guide](#) for businesses and marketing agencies, summarising how to comply with consumer protection law in relation to online reviews.

In conclusion

Blogs, videos and other online publications influence people's buying decisions. Similarly, customers look to online review sites for information about a product or service they may want to purchase.

While it is perfectly legal to market products through blogs, videos and other online publications or to invite customers to leave feedback on review sites, it is important that this is done honestly, openly and in compliance with consumer protection law. Misleading readers or viewers falls foul of consumer protection law and could result in enforcement by either the CMA³ or Trading Standards Services, which may lead to civil and/or criminal action.⁴

³ In deciding whether to take forward any such future action, the CMA will have regard to its published [CMA Prioritisation Principles](#).

⁴ Further guidance on the CPRs can be found on the CMA's [webpages](#) or by visiting the [Business Companion](#).

Thank you for reading this letter. We hope you will find it helpful in ensuring that you use these important and persuasive marketing tools honestly and legally.

Yours faithfully,

Jennifer West
Project Manager