

COLUMNS

How brands and influence marketers can avoid trouble with the FTC

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The last few years have been enormous in terms of growth for the influencer marketing business. It is currently a \$1 billion industry on Instagram alone brands tapping into influencers for content on Instagram and overall projected to grow to \$5 billion to \$10 billion by 2020.

As the industry becomes more mainstream, the Federal Trade Commission has looked to determine the best guidelines for disclosure.

#notkosher

The FTC made its first ruling on how influencers and brands should or, rather, should not mark partnered posts in August 2016: shortcut hashtags such as #spon and #sp were decided to be not clear enough.

Then, earlier this year, **the FTC directly contacted more than 90 marketers and influencers** urging them to directly disclose their relationship with brands on social media, marking their first active campaign to influencers.

Since this loud move, there has been a response not just from influencers, but from social media platforms as well to promote direct disclosures.

Instagram and Facebook are working to support FTC guidelines. Both introduced branded content tools, allowing influencers to tag the products and brands which sponsor them.

However, the FTC was not quite on board with these methods as a full disclosure, noting that they did not feel the tools from Facebook and Instagram quite **qualified as a full disclosure**.

In September, the FTC settled its **first-ever complaint** against social media influencers for not disclosing their relationship with the brands, confirming the seriousness of the organization's crackdowns on influencer marketing.

But what can brands and influencers do to avoid getting in hot water with the FTC to begin with?

Step 1: Get your hashtags right

Not all hashtags are created equal, according to the FTC

NOT all hashtags are created equal, according to the FTC.

The federal agency has made it clear that some are sufficient for partnership disclosure, while others are not, and understanding these differences is key for brands engaging in influencer marketing campaigns, as well as the influencers themselves.

To keep things clear and concise, parties may consider using #ad or #paid two of the shortest disclosure options but also the two most preferred by the FTC.

The FTC has also said that it does not consider hashtags such as #partner #spon #collab to be clear enough, as it is not clear to the consumer that the content is a paid ad opportunity.

Many influencers choose not to use these hashtags in fear that their followers will be put off by the upfront and obvious disclosure. However, this is not necessarily the case.

According to our [research](#), 69 percent of females are not bothered at all by #ad the biggest deterrent is content that is inconsistent with the influencer's organic content proving that there is really little reason to avoid this disclosure.

Incorporating just one FTC approved hashtag is enough to ensure any disclosure issues, which will save brands and influencers from getting in trouble in the long run.

Step 2: Pay attention to placement

Influencers are pros when it comes to using hashtags to drive conversations and catch their followers' attention, but they need to be mindful when it comes to their disclosure hashtags.

If the influencers' ad disclosure is buried in a sea of hashtags, this can be considered a hidden disclosure, which is a no-go, according to FTC guidelines.

Transparency is key when it comes to ad disclosures and the easiest way to ensure that the guidelines are met is by placing the #ad at the beginning of the caption.

While some influencers may opt to add their hashtag at the end of a post, the FTC has also warned that if the disclosure comes after the "more" section of the Facebook or Instagram post, the content is not considered to be properly marked as a paid placement.

For influencers and brands who still stand firmly against having #ad or #paid at the start of their caption, another option that creates a happy medium is working the disclosure hashtags into the caption content itself.

Whatever method the brand or influencer chooses, it is essential that they play by FTC rules.

Step 3: Consider a platform-by-platform approach

As brands and influencers work together to stick to FTC guidelines, they may want to consider taking a platform-by-platform approach, given each social media channel has a unique set of circumstances.

Some guidelines to keep in mind for each platform are:

- Instagram: Make sure to put your disclosure prior to the "more" section. Instagram slideshows and stories are both popular ways to showcase your content. Make sure to use the swipe-up capability to help your followers find products. And just make sure you use a disclosure on the story
- Blog: Make sure to disclose with a "this post is sponsored by" X brand at the top of the post
- Twitter: Input #ad anywhere in the tweet it only takes up three characters
- Facebook: You can now tag brands that are sponsoring your post, otherwise be sure to use #paid or #ad in a visible part of the post. Facebook Live is a great way to show your personality, while still emphasizing the partnership

WHILE PREVIOUSLY any disclosure at all may have been good enough to ensure clarity, the FTC's recent moves show that is just no longer the situation.

Brands and influencers need to take caution when it comes to disclosure to avoid being the next use case for FTC compliance fraud when it comes to influencer marketing, and to stay honest and authentic in the eyes of their followers and fans.

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