

THE FTC MEANS BUSINESS

By: Jack Greiner on April 24, 2017 on graydon.law

The Federal Trade Commission recently [sent letters to 90](#) “influencers and marketers” [reminding them](#) that they are required to disclose any “material connection” they have to any products they promote or endorse on social media. The FTC had previously issued [Endorsement Guides](#) addressing this topic. Apparently, some folks need reminders.

The Endorsement Guides are based on a simple premise. If an “influencer” (and that could be a celebrity or someone simply paid to conspicuously use a product) posts a photo showing how much that person enjoys some product, it might matter to other consumers if that person is getting compensated in some way. And because it might, the FTC requires the influencer to disclose the connection.

An organization called Public Citizen filed petitions with the FTC informing it that many endorsers on Instagram were not complying with the FTC Guidelines. In some cases that meant no disclosure, and in others that meant less than conspicuous disclosures. In [some cases](#), for example, the hashtag “sp” - apparently an abbreviation of “sponsored” was used to convey the connection. In other cases, where the text was lengthy enough to require a “more” option, the disclosure was visible only if a user actually hit “more.”

The FTC’s letters make it clear that the disclosure not only has to be made, but it has to be made clearly and conspicuously.

That may be an inconvenience for some folks, but it’s nice to see committed citizens make a difference.