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FTC Guides on Testimonials, Endorsement

There are new traps for the unwary for those using consumer or celebrity testimonials in advertisements. The new FTC Guides require one to disclose if testimonials are of “atypical” results or if their testimonials were “coerced with freebies.”

The FTC Guides are just that, guides. They include a number of examples plus explanations to assist one in interpreting the FTC Act. The FTC Guides for advertisers specifically covers the use of consumers and celebrities in advertisements. Some of the basic provisions are:

Consumers

- Advertisements that feature a consumer’s experience with a product or service that may not be typical need to convey the results that consumers can generally expect. One cannot rely on a disclaimer anymore such as “results are not typical.”
- Any payments or freebies (“material connections”) provided to endorsers that consumers would not expect to have been made must be disclosed.

Celebrities

- Advertisers and celebrities may be liable for false or unsubstantiated claims made in an endorsement or for failure to disclose “material connections.”
- Celebrities have a duty to disclose any relationships or compensation outside traditional ads, such as when they appear on talk shows or in social media.

The FTC appears to be trying to stop “bought” opinions or endorsements of success, etc. which are not typical. Caution is advised.

If you have questions concerning advertising and marketing issues, please call Kevin Collette at 206.654.2252.