

FTC Rules For Use Of Testimonials

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Background

Traditionally, we have approached our best Customers for testimonials to show off the best that our product or service can deliver.

In most cases, the FTC considers this to be misleading and implying to our prospects that they will achieve the same as the testimonial giver.

Other things to consider are also visual aids used to display the testimonial ... the old gimmick of showing the testimonial giver standing next to an expensive car in front of an expensive house is also against FTC rules – again, this is considered to be misleading prospects into expecting that they will achieve the same.

Display of financial gain and health benefits are also frowned upon unless you can prove that this is what every Customer should expect from your product or service.

In the following section, I have listed some key things that you must do when using testimonials as well as some that you must not.

The Musts and The Must Nots Of Testimonials

What You Must Have In Place

1. All testimonials must have substantiation for all the statements made
 - a. You cannot rely on what the testimonial giver says; it is your responsibility to check the claims made and to have substantiation available to back up all claims
 - b. This substantiation must be documented before you can use a testimonial
 - c. Only use typical results in testimonials
 - d. If you want to use actual numbers, ensure you have them fully substantiated and can show them as typical results
2. For each individual testimonial, you must have a disclaimer close to it saying whatever is being claimed may not be typical and that not all Customers will achieve these claims
 - a. You cannot have one disclaimer for multiple testimonials

Disclaimer: I am not a lawyer. The comments contained in this document are my professional opinion of best practice having studied the regulations, opinions and guidance of others. There are no guarantees, written or implied, that ALL items that the FTC may consider non-compliant will have been listed and documented; equally, the FTC may consider some of my recommendations as unnecessary. If in doubt, please consult with an FTC Compliance Lawyer.

3. You must have a signed document from the Customer confirming all facts are correct and giving you all rights to use the testimonial as you see fit
 - a. This is also for your protection to ensure that if you make a lot of money as a result of their testimonial, they can't come back for a "slice of the pie"
 - b. If you are an affiliate or a distributor of a product; you cannot just use your suppliers testimonials without your own documented substantiation and permission from the testimonial giver

Advice, focus on character and experience testimonials; if you have it signed off by the Customer, you shouldn't have anything to substantiate as the Customer is stating this is their own experience and it doesn't involve a net impression of financial gain or health improvement.

What You Must Not Do Or Use

1. As stated above, no fast cars, big houses or claims of financial reward or health benefits unless you can absolutely prove that every Customer will achieve this result –
 - a. In most cases this is impossible as it requires some effort from the Customer which they may not put in
2. You cannot use sponsored testimonials
 - a. Where you gave a free or reduced cost product
 - b. Where you paid for a testimonial
 - c. This includes, by implication testimonials from employees, family or friends
 - i. Companies have been caught out before as the FTC will ask for a list of every employee past & present in a Company and will cross check names
 - d. Avoid celebrity endorsements
 - e. If you are using doctors as medical corroboration, ensure you have multiple doctors, not just one
3. Fake testimonials
 - a. Already covered as you must have substantiation & sign-off to use a testimonial from the testimonial giver
4. Provide a net impression (what any normal person would take away from the testimonial) that is different to the actual facts
5. Don't imply promises that can't be substantiated particularly implied earnings

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