



Use of Testimonials

Testimonials are considered to be any advertising message that is made in testimony to the achievement or quality of a consumer product or service. An advertising message includes verbal or written statements, demonstrations, or depictions that will lead consumers to believe reflect the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser. As with all advertisements, testimonials must adhere to the basic principles of advertising law: (1) be truthful and not misleading; (2) have evidence to support the claim (substantiation); and (3) be fair.

In most cases, testimonials are to include a clear and conspicuous disclaimer that is in close proximity to the triggering claim. A disclosure can be considered to be “clear” and “conspicuous” if it stands out on the ad or in the testimonial. If the disclaimer is hard to find, tough to understand, or obscured in the ad then it will not meet this standard. Always be sure that your disclosures are close to the claims to which they relate, are in a font that is easy to read, in a shade that stands out against the background, if on video is on screen long enough to be noticed, to be read and to be understood, and that all disclosures are in words consumers will understand.

Keep in mind that a disclaimer does not alleviate the requirement for a testimonial to be truthful. As an example, if a cosmetic product has been approved for reducing the look of wrinkles, but not for addressing acne, claims made in a testimonial for the treatment of acne would not be permitted – even with a disclaimer. Additionally, it is key to remember that testimonial before and after pictures may not show what cannot otherwise be claimed. For example, a hair care product that helps provide thicker, fuller-looking hair cannot show a before and after picture depicting actual hair growth. Sounds like common sense, right? It really is! Testimonials are a great way for boosting a product, but they can't be used to make a claim that the company can't substantiate.

Some key areas to keep in mind when using testimonials:

- Testimonials must reflect the honest opinions, findings, beliefs, or experience of the person making the testimonial.
- Testimonials must not convey any express or implied deceptive representations.
- The person making the endorsement must have been a bona fide user of the product or service at the time the endorsement is given and the advertisement may be used only so long as the endorser remains a bona fide user of the product.
- The advertisement and endorser must possess and rely upon adequate substantiation, including when appropriate, competent and reliable scientific evidence to support such claims made through the endorsement.
- Advertisements that present “actual consumers” should utilize actual consumers. If actual consumers are not utilized then it must be clearly and conspicuously disclosed that the persons in such advertisements are not actual consumers of the advertised product.
- If the testimonial represents the opinion of an expert, then the endorser’s qualifications must in fact give the endorser the expertise that he or she is represented as possessing in the endorsement.
- When there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement then such connection must be fully disclosed in a clear and conspicuous manner. This includes when an IBO is selling products/services as well as using those product/services. Be sure to always disclose your relationship with ACN.

All testimonials to be used in connection with ACN products or services on social media, on personal websites, in meetings/ events or on Facebook pages created for the field by ACN, requires pre-approval before posting. This is to ensure the testimonial is substantiated, has all appropriate disclaimers and provides information on what the average consumer can expect to achieve.

Failure to adhere to these guidelines puts the ACN IBO and the entire ACN organization in jeopardy of legal action pursuant to an FTC challenge.

If you have any questions about this or any of our policies,
please contact the Business Ethics Department at businessethics@acninc.com.

We are here to help you.