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LEGAL AND PRIVACY

FTC cracks down on online review fraud

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Online and social media reviews and ratings are big business. Numerous studies and surveys have confirmed the importance of online reviews.

One highly cited study estimated that a one-star rating increase on Yelp translated to an increase of 5 percent to 9 percent in revenues for a restaurant.

Another study found that a one-point boost in a hotel's online ratings on sites such as Travelocity and TripAdvisor was tied to an 11 percent jump in room rates.

But where there is money, there is also a temptation to cheat.

The Federal Trade Commission recently announced settlements with two companies caught engaging in false advertising relating to online reviews and ratings.

Devumi LLC

The FTC settled a case with a company named Devumi and its CEO. Devumi used its Web sites, *Devumi.com*, *TwitterBoost.co*, *Buyview.co* and *Buyplans.co,* to sell fake indicators of social media influence, including fake followers, subscribers, views and likes to users of social media platforms, including on LinkedIn, Twitter, YouTube, Pinterest, Vine and SoundCloud.

Devumi sold fake Twitter followers to actors, athletes, musicians, writers and others who wanted to increase their appeal as online influencers.

The company also sold fake Twitter followers to motivational speakers, law firm partners, investment professionals and others who wanted to boost their credibility to potential clients.

According to the FTC, Devumi filled more than 58,000 orders for fake Twitter followers, enabling buyers to deceive potential clients about their social media influence.

Devumi also allegedly had more than 4,000 sales of fake YouTube subscribers and more than 32,000 sales of fake YouTube views to its clients, including musicians who wanted to increase the apparent popularity of their songs.

And Devumi sold more than 800 fake LinkedIn followers to marketing, advertising and public relations firms, companies offering computer software solutions, banking, investment and other financial services firms, human resources firms and others.

Needless to say, this was highly deceptive conduct and illegal advertising.

The FTC sued in federal court in Florida, and then Devumi entered into a $2.5 million settlement.

Sunday Riley

Sunday Riley Skincare, founded and managed by its namesake, Sunday Riley, sells a variety of cosmetic products, principally through the well-know chain of beauty stores Sephora, and on the *Sephora.com* Web site. The products sell for between $22 and $158 each.

Sephora allows consumers to leave reviews of products sold on its Web site, providing a forum for sharing feedback about the products offered for sale.

For about a year and a half, Sunday Riley engaged in massive efforts to post fake reviews. This was only revealed when a disgruntled ex-company employee posted detailed emails to Reddit and Instagram that detailed these efforts.

Between November 2015 and August 2017, Sunday Riley managers, including Ms. Riley herself, posted reviews of their branded products on the Sephora site using fake accounts created to hide their identity. They also requested that other Sunday Riley employees do the same thing.

After Sephora removed what it determined were fake employee-written reviews, Sunday Riley employees suspected this was because Sephora recognized the reviews as coming from their IP addresses.

So, Sunday Riley then obtained, according to one of the company's managers, "an Express VPN account [to] . . . allow us to hide our IP address and location when we write reviews." A VPN virtual private network lets users access the Internet privately, by using separate servers to hide their online activity.

The FTC complaint quotes from a July 2016 email that Ms. Riley wrote to her staff. The email, which had been revealed to the FTC by a former Sunday Riley employee and whistleblower, directed each of the staff to "create three accounts on *Sephora.com*, registered as . . . different identities."

The email included step-by-step instructions for setting up new personas and using a VPN to hide their identities, and directed employees to focus on certain products, to "[a]lways leave 5 stars" when reviewing Sunday Riley Skincare products, and to "dislike" negative reviews. "If you see a negative review DISLIKE it," Ms. Riley wrote, "After enough dislikes, it is removed. This directly translates into sales!!"

The FTC filed suit in federal court, alleging this to be deceptive advertising. It then reached a settlement, with the settlement itself becoming controversial.

Controversial settlement

The proposed settlement entered into by the FTC, provided only for an injunction against future deceptive conduct. Notably, there was no admission of wrongdoing, no notice to consumers and no monetary penalties.

This was too much for two out of the five FTC commissioners. In an unusual move, the two issued a blistering dissenting opinion, calling for rejection of the settlement and imposition of harsh monetary sanctions. They argued:

"This settlement sends the wrong message to the marketplace. Dishonest firms may come to conclude that posting fake reviews is a viable strategy, given the proposed outcome here. Honest firms, who are the biggest victims of this fraud, may be wondering if they are losing out by following the law. Consumers may come to lack confidence that reviews are truthful."

The dissenters also noted that false reviews are a worldwide problem, and government agencies in Canada, Australia and the United Kingdom have recently taken serious efforts to crack down on the practice.

The settlement is no more popular among the public. The FTC is required to post the proposed settlement for public comment for 30 days before it approves it.

Public comment has been scathing. Consumers have called the FTC's settlement terms "disgusting" "deeply disappointing" and lacking in "actual consequences."

It remains to be seen whether the settlement will be finally approved.

Other blowback

The revelations about Sunday Riley affect not only that company and its customers.

Sephora felt compelled to issue a statement defending its rating system.

"We have teams dedicated to protecting the integrity of our Ratings and Reviews, ensuring through detailed moderation that it's a constant trusted, unbiased, authentic source for all."

Sephora also noted that it did not believe this incident is representative of the Sephora Ratings and Reviews culture.

But such revelations clearly shake the credibility of the Web sites and retailers involved.

Takeaways

The level of deception in the Devumi and Sunday Riley cases was massive and blatant. Little wonder that the FTC, once it learned of the problems, cracked down.

Most companies involved in marketing and promotion would never engage in such blatant dishonesty. But they still need to be aware that any chicanery in ratings and reviews may well be scrutinized.

Companies do need to be wary on other levels.

For companies such as Sephora that maintain sites that include ratings and reviews, there clearly is a need to self-police these sites to weed out fakers and false posters, as Sephora does.

MARKETERS THAT may rely on reviews and other such metrics need to be wary of inflated popularity.

For example, use of social media influencers is a growing marketing tool. Their effectiveness is often measured by metrics such as likes and number of followers. That a company such as Devumi might help artificially inflate these metrics is something that users of this promotional tool need to be aware of as they proceed.

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