

Charges Settled Over Fake Reviews on iTunes

SAN FRANCISCO — Discerning Internet users know that glowing online reviews of things like books or restaurants cannot always be trusted. But federal regulators are serving notice that if you stand to gain financially from the review you are writing, you should be upfront about it.

The Federal Trade Commission said on Thursday that a California marketing company had settled charges that it engaged in deceptive advertising by having its employees write and post positive reviews of clients' games in the Apple iTunes Store, without disclosing that they were being paid to do so.

The charges were the first to be brought under a new set of guidelines for Internet endorsements that the agency introduced last year. The guidelines have often been described as rules for bloggers, but they also cover anyone writing reviews on Web sites or promoting products through [Facebook](#) or [Twitter](#).

They are meant to impose on the Internet the same kind of truth-in-advertising principles that have long existed offline.

Under the settlement, Reverb Communications and one of its executives, Tracie Snitker, agreed to remove all of the iTunes reviews that appeared to have been written by ordinary people but were actually written by employees of the company, which is based in Twain Harte, Calif.

The settlement also bars Reverb and Ms. Snitker from making similar endorsements of any product or service without disclosing any relevant connections. The settlement did not involve any monetary penalties.

"We hope that this case will show advertisers that they have to be transparent in their practices and help guide other ad agencies," said Stacey Ferguson, a lawyer in the advertising practices division of the trade commission's Bureau of Consumer Protection.

Ms. Snitker declined to be interviewed, but in a statement she said that in discussions with the trade commission, "it became apparent that we would never agree on the facts of the situation."

“Rather than continuing to spend time and money arguing, and laying off employees to fight what we believed was a frivolous matter, we settled this case and ended the discussion,” she said. Ms. Snitker said that the settlement did not involve any admission of lawbreaking.

When the guidelines were announced, many bloggers and users of services like Twitter complained of government overreach, and worried that they would have to disclose even tenuous connections with companies or services they wrote about.

But Jonathan Zittrain, a professor at [Harvard](#) Law School and co-founder of the Berkman Center for Internet and Society, said the commission’s first enforcement action under the guidelines should be seen as good news by those who were concerned.

“This case sort of shows that what they have in mind is not the individual blogger or Twitterer, but rather a professional endorser,” Professor Zittrain said.

The action could be useful to public relations companies that want to resist requests from clients that they play dirty, he said.

“When a client says ‘Where are my good reviews? I am paying for them,’ you can say, ‘We can’t do it because it is illegal,’ ” Professor Zittrain said.

According to the commission’s [complaint](#), Reverb employees, including Ms. Snitker, posted positive reviews about clients’ games from November 2008 to May 2009. The reviews were posted under account names that would give readers the impression that they had been placed by ordinary consumers, the complaint says.

The reviews typically gave the games four or five stars and included comments like “Amazing new game” and “One of the best apps just got better.”

The complaint does not identify the game developers whose work was reviewed. Reverb’s Web site lists more than 60 current and former clients, including Digital Leisure, Harmonix and MTV Games. The complaint said Reverb was paid a commission of a portion of sales by its game developer clients.

Given that fake reviews are widely understood to be common in the iTunes Store and on many Web sites, it was not clear why the trade commission had singled out Reverb. But the blog MobileCrunch [reported](#) last August that it had obtained a

company document in which Reverb said it had hired “a small team of interns” whose tasks included “writing influential game reviews.”

Eric Goldman, former general counsel of Epinions.com, which reviews consumer products, said fake reviews were “a pervasive problem on the Internet.”

“It is a problem that every review site has to grapple with,” said Mr. Goldman, now a law professor at Santa Clara University and director its High Tech Law Center. “Many sites don’t have rigorous policing mechanisms, so it is very hard to verify the trustworthiness of reviews.”

While the case against Reverb is the first brought under the commission’s new guidelines, it is not the first of its kind. Last year, Attorney General [Andrew M. Cuomo](#) announced that the State of New York had reached a \$300,000 settlement with Lifestyle Lift, a cosmetic surgery outfit, over faked reviews of its products on the Internet.

In a press release, the attorney general said the action was “a strike against the growing practice of ‘astroturfing,’ in which employees pose as independent consumers to post positive reviews and commentary to Web sites and Internet message boards about their own company.”