



Response to Request for Comments on Proposed Rulemaking 16 CFR Part 465 “Trade Regulation Rule on the Use of Consumer Reviews and Testimonials”

August 23, 2023

The Federal Trade Commission’s increasing focus on the problem of fake customer reviews and testimonials is encouraging. This is an underappreciated problem that harms both consumers and puts small businesses and honest review sites at a disadvantage. However, the proposed rules will be insufficient to tackle the problem and we urge the Federal Trade Commission to expand the scope of its proposal to cover review platforms, such as Amazon.com and Google.

The new regulations proposed by the [Federal Trade Commission in 16 CFR 465](#) include several rules aimed at businesses that post fake reviews, pay or otherwise incentivize customers for positive reviews, repurpose existing reviews for other products, and bully consumers into removing negative reviews. These are all worthy rules, but they will be insufficient to tackle the problem because:

- **Many fake reviews directed at influencing US consumers are posted from abroad.** The Federal Trade Commission can only effectively enforce rules in places where it has jurisdiction. Ecommerce is increasingly global and many of the merchants selling to American consumers are based abroad in places where the Commission lacks jurisdiction. This is particularly the case on platforms like Amazon.com. Amazon acknowledged the problem of fake reviews originating in other countries in their [public comment](#) submitted to The Federal Trade Commission on Jan 9, 2023 regarding *Reviews and Endorsements ANPR, P214504*
- **The problem of fake reviews is so vast that enforcement actions against individual companies posting or encouraging fake reviews is unlikely to be sufficient.** It takes very little effort to create a user account and post fake reviews online. That is one of the reasons there are so many fake reviews. In their comments submitted to the Commission on Jan 9, 2023, Amazon representatives said the company blocked over [200 million fake reviews](#) in 2020 alone. While that is an impressive number, the fake review problem on Amazon still persists, which shows the scale of the problem is enormous. The Federal Trade Commission’s proposed rules targeting individual businesses that post fake reviews are unlikely to make a huge difference when the problem is this large and the barriers to posting a fake review are so low.

We believe that a more effective solution to the problem of fake consumer reviews and testimonials identified by this commission would be to expand the scope of the proposed rules and hold review platforms, like Amazon and Google, accountable for fake reviews posted on their sites. There are a few reasons why this approach would be more effective:

- **Review platforms are the best positioned to police fake reviews.**

In their written comments to this commission, both Amazon and Google said they have made substantial investments in detecting fake reviews on their platforms. While it is clear these investments have been insufficient, it is still the case that review platforms are naturally better suited to ensure review authenticity and take actions on removing those reviews than an outside agency.

- **Holding review platforms accountable for fake reviews would resolve an inherent conflict of interest.**

While platforms like Amazon and Google present themselves as the victims of fake reviews, they nevertheless indirectly benefit from them. Amazon collects fees from merchants who sell products using fake reviews. Some of Google's advertising products automatically highlight user reviews, which may be of questionable quality. They would face unhappy advertisers and likely less ad revenue if they held reviews featured in ads to a high standard.

- **Review platforms claim to have a zero tolerance policy for fake reviews but do not remove known fake reviews or products with fake and/or incentivized reviews from their platform.**

Review platforms have the ability to monitor reviews and allow users to report suspected fake or incentivized reviews, but do not take sufficient action to actually remove known fake or incentivized reviews and/or products from their platforms. In a public comment submitted by UC Davis researchers Rajvardhan Oak and Zubair Shafiq to the Federal Trade Commission on January 8, 2023, the researchers described a study performed in which they monitored 1600 products on Amazon known to be sold by retailers providing incentives for reviews, over the course of six weeks. After six weeks, "nearly 50% of the products seeking incentivized reviews had[d] none of their reviews removed" and "only 25 [products] were removed by Amazon." PerfectRec employees have also experienced this problem first-hand, reporting their receipt of a request from a seller to provide a 5-star review in exchange for a \$25.00 Amazon gift card or free product (see screenshots in appendix). One month after reporting this review solicitation, Amazon has still not removed the fake and incentivized reviews or flagged the product listing for containing fake and incentivized reviews. It is apparent that platforms can be doing more to solve the problem of fake and incentivized reviews but chose not to do so and likely will not take sufficient action without regulation.

- **We know large internet platforms can successfully police illegal and inappropriate content when required to do so.**

Holding platforms accountable for things like pornography published on their platform has proven extremely effective. Platforms like Facebook have sophisticated systems and processes in place to ensure the feed isn't full of nude pictures. Big tech platforms can address the problem of inappropriate or illegal content posted by users when compelled to do so. There is no technological or capacity reason why they can't do the same for fake reviews.

The likely objection to holding review platforms accountable for fake reviews is that Section 230 of the 1996 Communications Decency Act provides immunity to online platforms from liability for content posted by their users. However, due to pressing public interest, Section 230's liability protections are not limitless and it does not protect platforms from violations of federal criminal laws or intellectual property laws (47 U.S.C. 230(e)(1), (2)). As a result of these exceptions to Section 230, Facebook isn't full of pornography and YouTube takes down copyrighted material when asked. If the FTC believes its authority to regulate review platforms is limited by Section 230 until Congress enacts a more clear exception, there are still actions the FTC can take to make platforms more accountable for deceptive content that they allow to remain on their websites. At a minimum, the FTC could draft rules requiring review platforms to be more transparent about how they are addressing and removing fake and/or incentivized reviews. As the Commission stated in the proposed rule change, fake user reviews and testimonials are a large and growing problem. We urge you to take that problem seriously and propose rules that will have a chance to address it.

Sincerely,



Joe Golden
Founder & CEO, PerfectRec

Appendix:

Example of Amazon's fake and incentivized fake review problem.

In July, 2023, a PerfectRec employee received a solicitation to leave an incentivized five star review for a [hair loss product](#) on Amazon. This is a violation of [Amazon policies](#) and would be a violation of the FTC's proposed rules on fake and incentivized reviews. It is worth noting that in this particular case, the merchant is only offering an incentive if you leave a review *before* a consumer would expect to see any effect from the treatment.

OFFER EXPIRES IN 14 DAYS !

To our most valuable customer
Thank you for purchasing the 5% Minoxidil Foam from us on Amazon ! We hope you enjoy it !



If you are satisfied with this purchase, would you please leave us a 5 star Review or Rating on Amazon? As a way to show our gratitude, we will send you a **\$25 Amazon E-Gift Card** OR a same free product. also we will pay shipping fee.

How to redeem the reward?

- 1 Email us at " amzgift20@gmail.com " With Your Order Number "111-0190604-xxxxxx"
- 2 And 5 star Review screenshot. You will receive your e-code once review went live!
- 3 Tell us you would like a **\$25 Amazon E-Gift Card** or a **Same Free Product**.

* This offer applies to the first purchase only. It is on manufacturer discretion, please do not contact seller on AMZ this will void your benefit!

If in any way our products did not reach your expectations, or if you have any suggestions and would like to share with us, we will be incredibly grateful if you let us know by sending us an email to amzgift20@gmail.com



Amazon does not make it easy to report solicitations like this on their website, but after some research, the PerfectRec employee was able to find a contact email and reported the seller on 7/11/2023.

Hello,

I received the attached review solicitation in the mail from an Amazon seller. They are offering a \$25 Amazon e-gift card or free product in exchange for a 5-star review. The seller is TOMUM USA and the product is "5% Minoxidil Foam for Men and Women Topical Hair Loss treatments Hair Growth Serum, Hair Growth for Women and Men" available for purchase at this link: https://www.amazon.com/Minoxidil-Women-Topical-treatments-Growth/dp/B0C2Z ZZYLH/ref=cm_cr_ar_p_d_product_top?ie=UTF8 . It looks like a number of their reviews on this product are probably fake as well and/or were compensated reviews.

Could you please let me know how Amazon will resolve this issue with this seller? I have been finding more and more obviously fake and/or compensated reviews on the site and it is making shopping much more difficult.

The response Amazon sent to the PerfectRec employee claims they do not allow reviews that are created in exchange for compensation, but that they cannot share any additional information about corrective actions:

Thank you for informing us that you have received a compensation offer for a review on 5% Minoxidil Foam for Men and Women Topical Hair Loss treatments

Hair Growth Serum, Hair Growth for Women and Men - Slows Hair Loss & Promotes Hair Regrowth For Thicker, Longer Hair 2 Month Supply. Amazon strives to maintain customer trust and provide the best possible shopping experience. Reviews should reflect your honest opinion. That's why we don't allow reviews that are created, edited, or removed in exchange for compensation. Compensation includes cash, discounts, free products, gift cards, extended warranties and refunds. We investigate and take actions when we detect any attempts to manipulate customer reviews.

We take reports such as yours very seriously. Our team will investigate to determine if the activity reported violates Amazon's Community Guidelines and take the appropriate actions. While we cannot share any additional information about any actions we take, we appreciate your help in ensuring other customers are empowered to make informed purchase decisions with authentic customer reviews.

Despite claiming to take this report seriously, as of 8/8/2023, Amazon does not appear to have taken any action on the report. In the meantime, the number of reviews has ballooned from 101 to 423 reviews, many of which are visibly fake compensated reviews. The listing has not been flagged for containing fake or incentivized reviews and new reviews explicitly mentioning compensation are on the listing.



★★★★★ love this shampoo

Reviewed in the United States us on July 14, 2023

Verified Purchase

HI ARE YOU GOING TO SEND ME ANOTHER BOTTLE FOR FREE. I DIDNT WANT THE GIFT CARD. I HAD A CHOICE

Example of incentivized five-star review being generated on Amazon. Screenshot captured 8/8/2023. Reported to Amazon on 8/8/2023. Review remains posted as of 8/10/2023.

###