

## FTC Compliance: Message Honestly

No matter how small your business, once you start advertising, you're an "advertiser" in the eyes of the Federal Trade Commission, a government organization that protects consumers in the US. (Even if you're not in the US, it's good to be sure you're FTC-compliant, as these rules generally apply beyond the borders.)

This PDF will help keep most copy hackers on track, but please don't use it as legal guidance. (I totally dropped out of Law school!) Always consult a qualified attorney to discuss your unique situation, and be sure to review FTC policies in detail at [business.ftc.gov](http://business.ftc.gov)

| If...                                                                       | Then...                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| You show <b>testimonials or data</b> featuring results that are atypical... | <p>Write "results not typical" <i>and</i> disclose how these results were achieved, including any special circumstances. You shouldn't use a testimonial that makes a claim you cannot substantiate beyond that one user's experience.</p> <p>A great workaround can be using lengthier testimonials and/or case studies that actually disclose the uniqueness of a situation in the testimonial itself. Bonus: longer testimonials and case studies can be powerfully persuasive.</p>                                                                                                                                          |
| You offer a <b>subscription</b> model for payment or delivery...            | <p>Be sure to explain – in clear language – 1) what buyers will be receiving; 2) the frequency with which they'll be billed; 3) how much they can expect to pay now and at each billing; 4) how to cancel; and 5) whether their payment info will be transferred to a third party.</p> <p>Also, make it easy to cancel.</p>                                                                                                                                                                                                                                                                                                     |
| You are making <i>any</i> <b>claims</b> ...                                 | <p>You shouldn't use a claim you cannot substantiate.</p> <p>Be sure that all disclaimers and disclosures are 1) easily noticed; 2) easily read or heard; and 3) easily understood. Depending on the magnitude of the claim, doing this can be as simple as putting disclaimers and disclosures in legible "micetype" or footnotes at the bottom of the page.</p> <p>Avoid challenges by messaging that your product "helps to" achieve X outcome rather than that it <i>directly</i> creates X outcome. However, be careful as the FTC looks at claims that are implied very much as they look at claims that are express.</p> |
| You are making claims specific to <b>health, safety or performance</b> ...  | Substantiate them on the page.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| You have a <b>demo</b> ...                                                  | Show the product being demonstrated <i>under normal use</i> .                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

|                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                | <p>For example, if your product melts at room temperature, don't film it in a -10 room without disclosing that.</p> <p>If your demo reads like an infomercial, be sure to consult the FTC regulations for infomercials. (In most cases, it'll be clear to the visitor that they're watching an advertisement, so many of the FTC's infomercial regulations may not apply to you.)</p> |
| You use satisfaction <b>guarantees</b> or money-back guarantees...                                                                                             | Outline the terms of the guarantee before the purchase is completed, and then give full refunds for any reason.                                                                                                                                                                                                                                                                       |
| You want to message that your product is made in a certain <b>country</b> ...                                                                                  | The product has to be completely – or nearly completely – made in that country.                                                                                                                                                                                                                                                                                                       |
| You want to offer a <b>contest</b> or sweepstakes...                                                                                                           | Do not require entrants to purchase anything from you as entry into the contest or sweepstakes.                                                                                                                                                                                                                                                                                       |
| You want to have your friend or family member, who has authority or influence over your prospects, offer an <b>endorsement</b> ...                             | Disclose the connection/relationship (“material connection”) you have with that person.                                                                                                                                                                                                                                                                                               |
| You want to use the word “ <b>new</b> ” to advertise your product.                                                                                             | Only call it “new” if it has been advertised for fewer than 6 months.                                                                                                                                                                                                                                                                                                                 |
| You promise to <b>ship</b> within a specific period but you fail to do so...                                                                                   | Contact the customer, inform them of the delay, and give them the option to cancel their order.                                                                                                                                                                                                                                                                                       |
| You are “ <b>dry testing</b> ” the market to see if they'll respond to offers for your product <i>before</i> you actually create or manufacture the product... | You <i>may</i> be required to disclose to consumers that the merchandise is planned only and may not ever be shipped.                                                                                                                                                                                                                                                                 |
| You are <b>omitting information</b> that you believe will help the consumer decide not to choose you...                                                        | Provide the information instead of omitting it. This doesn't mean talking about the parts of your competitors' products that make them better than yours; this simply means that you shouldn't leave out known product flaws or similar points that <i>you</i> would want to know if you were in your prospects' shoes.                                                               |
| You think someone will feel <b>misled or harmed</b> by your claim, representation, practice, or omission of information...                                     | Do whatever it takes to prevent that! That's just good customer service. 😊                                                                                                                                                                                                                                                                                                            |

## ABOUT THE WORD “FREE”

I recommend you check out the FTC’s guidelines on use of the word “free” ([available here](#)) before you get too far down the path of messaging something as “free” when it may not be considered free in the eyes of the FTC. Here are some quick points to keep in mind:

- Something is only free if the consumer is not paying for it in any way; be careful about jacking up the price of one product in order to cover the costs of throwing in a “free” product
- If you’ve adjusted the quality or quantity of a “free” product, do not represent it as having the same quality or quantity as the paid version of it
- If you show the regular price of the product that you’re giving away “free” on your sales page, that regular price should have been established over a 30-day period; if the price of the product fluctuates, the *lowest* price it was sold for during the past 30 days should generally be used as the “regular” price; basically, don’t make up some inflated price just to make your free product look more desirable
- If there are any special conditions around whether someone qualifies to get your free product for free or not, disclose those conditions clearly – which usually means in very close proximity to the “free” messaging

If you have any affiliates, it’s important that they also understand regulations around the word “free”.

## ABOUT PRICING YOUR PRODUCTS

The FTC details ways to stay on the up-and-up when you’re messaging the price of your products ([read more here](#)). Here are some quick points to keep in mind:

- Don’t artificially inflate prices! If you set up a price comparison – such as showing a before / regular price and an after / discounted price – the before / regular price needs to be genuine, not just an inflated value you place on it to make your discount look great
- Don’t suggest price reductions that don’t exist! If you show only your discounted price rather than your discounted *and* regular price, the discount needs to be significant in order for you to use messaging like “Reduced to”
- Don’t claim to be selling your product at factory or direct-from-the-manufacturer prices if you are, in fact, not selling at the standard factory or direct-from-the-manufacturer price

## ABOUT PRIVACY POLICIES

At the bottom of your sales page, you may wish to add a link to a page disclosing your Privacy Policy and any other legal Terms of Service.

In your Privacy Policy, be sure to clearly disclose that you gather and store private information (if you do), that your customers are agreeing to the collection and storage of their private information by doing X with you, who has access to that information, and how it’s kept secure.

## OTHER POINTS OF NOTE

- Letters from satisfied customers are not enough to substantiate a claim
- If your offer is not for a limited time, do not message it as being for a limited time; if your offer does not end at midnight, do not message it as ending at midnight
- If you're an affiliate for a product that uses hype advertising or messages the FTC wouldn't look kindly on, it's up to you to exercise caution in marketing such products, especially when writing your own copy that links to them
- If you're advertising health-related products, alcohol, consumer credit products or environmentally friendly products, review the FTC website in detail for specifics around each
- If you're advertising to children, review the FTC website in detail
- Avoid suggesting an endorsement of your product by a person or company that has not actually endorsed your product, either by using it of their own volition (i.e., purchasing it) or by agreeing to endorse it; even celebrities and companies that agree to endorse your product must actually have *used* it
- The FTC website is updated on a daily basis, so always refer to [business.FTC.gov](http://business.ftc.gov) for the most up to date regulations, guidelines and so forth
- Be sure to refer to the FDA (Food and Drug Administration) guidelines for *labelling* your food and/or drug products

If you transact with people *outside* the US, also refer to this document, at minimum:

<http://business.ftc.gov/documents/alt067-electronic-commerce-selling-internationally-guide-businesses>