January 18, 2023

Federal Trade Commission
Ms. April Tabor
Office of the Secretary
400 7th St. SW, 5th Floor, Suite 5610
Washington, DC 20024

Dear Ms. Tabor,

On behalf of the Center for Data Innovation (datainnovation.org), I am pleased to submit the following comments to the Federal Trade Commission (FTC) in response to the request for comments regarding whether to commence a rulemaking proceeding to address certain deceptive or unfair uses of reviews or endorsements.[1]

The Center for Data Innovation studies the intersection of data, technology, and public policy. With staff in Washington, London, and Brussels, the Center formulates and promotes pragmatic public policies designed to maximize the benefits of data-driven innovation in the public and private sectors. It educates policymakers and the public about the opportunities and challenges associated with data, as well as technology trends, such as open data, artificial intelligence, and the Internet of Things. The Center is part of the Information Technology and Innovation Foundation (ITIF), a nonprofit, nonpartisan think tank.

SUMMARY

Online consumer reviews play two important roles. First, reviews help consumers make informed decisions about products, services, and company reputations. Second, reviews inform companies about consumer experiences, so companies are able to modify or improve their operations. However, some bad actors use deceptive practices, including submitting fake reviews, to manipulate consumer behavior and businesses reputations. To protect consumers and businesses from fake reviews, the Commission is considering commencing new rulemaking to address certain deceptive or unfair uses of reviews or endorsements.

---

[1] Federal Trade Commission, "FTC to Explore Rulemaking to Combat Fake Reviews and Other Deceptive Endorsements," news release, October 20, 2022, https://www.ftc.gov/news-events/news/press-releases/2022/10/ftc-explore-rulemaking-combat-fake-reviews-other-deceptive-endorsements.

The Center supports the Commission's goal of protecting consumers and businesses from fake reviews. In response to the Commission's questions, we offer the following key takeaways.

1. As an alternative to new regulation, the Commission should **establish an ongoing partnership with review companies, e-commerce platforms, and social media companies to establish voluntary best practices to detect and prevent fake reviews.** Voluntary best practices should incorporate and acknowledge effective solutions that partners currently implement, account for fake review brokers, and provide standardized solutions and processes to address fake reviews that current enterprises and new entrants can easily enact.
2. The Commission should **establish a public-private partnership with private sector stakeholders to share data related to known bad actors involved in publishing fake reviews.** This partnership will increase transparency, improve detection, and help identify bad actors engaging across multiple platforms.
3. The Commission should **expand liability for deceptive reviews to fake review brokers**. To do so, the Commission should specifically name fake review brokers as an intermediary liable for their role in deceptive review practices in proposed Section 255.1(f) of the FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising.[2]

Please find extended answers to specific questions below.

Best,

Becca Trate
Policy Analyst
Center for Data Innovation

---

[2] Guides Concerning the Use of Endorsements and Testimonials in Advertising, 87 Fed. Reg. 44288 (proposed July 26, 2022).

(1) How widespread is the marketing of products or services using: (a) reviews or other endorsements by nonexistent individuals or by those who did not actually use or test the product or service; (b) reviews or other endorsements by individuals who are misrepresenting their experiences with a product or service; (c) review hijacking (where a seller steals or repurposes reviews from another product); (d) paid or incentivized consumer reviews that were required to be positive or required to be negative (if of a competitor's product); (e) consumer reviews written by the owners, officers, or employees of the company offering the product or service, or their family members; or (f) websites or other organizations or devices that purportedly provide independent reviews or opinions of products or services but are in fact created and controlled by the companies offering the products or services?

As the Commission notes, there are many different types of fake reviews. Due to the nature of fraud, it can be difficult to determine the scope of a specific type of fake review. However, researchers studying deceptive reviews found that fake reviews do have a large presence online and a significant impact on commerce. Research published in 2016 by Northwestern and the Massachusetts Institute of Technology found approximately five percent of reviews left for a private-label apparel company were posted by individuals who did not purchase products.[3] Similarly, researchers from the University of Baltimore and CHEQ, an Israeli software company, determined that approximately four percent of online reviews are fake in 2021.[4] The University of Baltimore-CHEQ study also found that 89 percent of e-commerce revenue annually is impacted by reviews, and fake reviews impact nearly $152 billion in global e-commerce revenue.[5]

The use of fake reviews extends beyond consumer products and e-commerce. Harvard University researchers found that Yelp flagged and filtered out approximately 16 percent of reviews in 2016, amounting to almost 11 million fake reviews published on the platform.[6] In another study published in 2015, researchers at the Hong Kong Polytechnic University and Harbin Institute of Technology in China analyzed 41,572 reviews on TripAdvisor and determined approximately 20 percent of reviews were suspicious.[7]

---

[3] Andrea Chang, "Consumers writing bad reviews for products they didn't even buy," The Los Angeles Times, July 2, 2013, https://www.latimes.com/business/la-xpm-2013-jul-02-la-fi-tn-fakeproduct-reviews-20130702-story.html.

[4] Roberto Cavazos, "The Economic Cost of Bad Actors on the Internet: Fake Online Reviews 2021" (paper commissioned by customer acquisition security firm CHEQ, 2021).

[5] Ibid.

[6] Michael Luca and Georgios Zervas, "Fake It Till You Make It: Reputation, Competition, and Yelp Review Fraud," Management Science 62, no 12 (December 2016), https://doi.org/10.1287/mnsc.2015.2304.

[7] Markus Schuckert, Xianwei Liu, and Rob Law, "Insights into Suspicious Online Ratings: Direct Evidence from TripAdvisor," Asia Pacific Journal of Tourism Research 21, no. 3 (2016): 259–272, https://doi.org/10.1080/10941665.2015.1029954

The reach of fake reviews has likely grown since studies were published, as has the response by platforms, companies, and review websites. Still, the advancement of technology, such as artificial intelligence (AI), has made creating fake reviews easier. In 2017, researchers at the University of Chicago created an AI system able to write reviews on online platforms and found the AI-generated reviews were nearly indistinguishable from reviews written by people.[8] The technology has only improved in subsequent years.

(9) What actions, if any, have platforms taken to address the practices described in Questions 1 through 3, above?

Many e-commerce businesses, review websites, and social media companies proactively address fake reviews on their platforms. Examples of how the industry addresses the problem include technological solutions for review verification, terms of use that prohibit fake reviews, and legal action against those who procure fake reviews. These solutions reduce the presence of fake reviews on consumer-facing websites. For example, Amazon, the largest e-commerce platform in the world, maintains a robust review process that helps to prevent fake reviews and remove fake reviewers from the platform. In addition to using a "Verified Purchase" label to flag reviews from customers who purchased through Amazon's platform, the company uses machine learning to analyze reviews before they are posted.[9] This program successfully identified and removed more than 200 million fake reviews in 2020.[10] Review websites, such as TripAdvisor, have similar policies in place to monitor reviews. TripAdvisor's review analysis systems and content moderation division rejected more than 900,000 reviews in 2021 after it determined reviews were fraudulent.[11]

The industry also punishes those who procure fake reviews. For example, Amazon blocks sellers accused of fake review schemes and takes legal action against those that violate its terms of

---

[8] Rob Price, "Researchers taught AI to write totally believable fake reviews, and the implications are terrifying," Business Insider, August 29, 2017, https://www.businessinsider.com/researchers-teach-ai-neural-networkwrite-fake-reviews-fake-news-2017-8. and James Vincent, "AI trained on Yelp data writes fake restaurant reviews 'indistinguishable' from real deal," The Verge, August 31, 2017, https://www.theverge.com/2017/8/31/16232180/ai-fake-reviews-yelpamazon.

[9] Morgan Stevens and Daniel Castro, "How Policymakers Can Thwart the Rise of Fake Reviews," (Center for Data Innovation, September 12, 2022), https://datainnovation.org/2022/09/how-policymakers-can-thwart-the-rise-of-fakereviews/.

[10] Laura Hautala, "What to Know About Fake Reviews When Shopping Prime Day Deals," CNET, July 12, 2022, https://www.cnet.com/tech/servicesand-software/features/amazons-never-ending-fake-reviews-problemexplained/.

[11] TripAdvisor, "Review Transparency Report" (2021).

service, per its review policy.[12] This includes legal action against those allegedly engaged in fake review schemes.[13] Social media platforms, where fake review procurement operations often originate, have taken similar steps. Facebook bans groups dedicated to fraudulent activity, and removed nearly 16,000 Facebook Groups used to buy and sell fake reviews following a 2020 investigation by the U.K. Competition and Markets Authority.[14] Facebook Groups are social spaces individual users can create on Facebook to connect with other users based on shared interests. Following the 2020 investigation, Facebook also improved its response time when responding to allegations of prohibited practices in Facebook Groups. The average response time dropped from 45 days in 2020 to five days in 2021.[15]

(10) What actions have others taken to facilitate or enable the practices described in Questions 1 through 3, above? For example, what types of services specifically allow marketers to engage in these practices, and who is providing these services?

Fake review brokers help facilitate the creation of fake reviews by connecting bad actors with reviewers.[16] Research from the University of California, Los Angeles found that fake review brokers use large groups on websites such as Facebook to find reviewers willing to write reviews in exchange for free products or compensation.[17] The review broker dictates what the review should say and the rating. Once the review is accepted and posted, the reviewer is paid. Review brokers may be individuals operating alone, product sellers, or companies posing as legitimate marketing services.[18]

---

[12] Amazon, "Anti-Manipulation Policy for Customers," https://www.amazon.com/gp/help/customer/display.html?nodeId=G8CXDFT9GLRRSV3G.

[13] Annie Palmer, "Amazons sues two companies that allegedly help fill the site with fake reviews," CNBC, Feb. 22, 2022, https://www.cnbc.com/2022/02/22/amazon-sues-alleged-fake-reviews-brokers-appsally-rebatest.html.

[14] The Competition and Markets Authority, "CMA intervention leads to further Facebook action on fake reviews," news release, April 9, 2021, https://www.gov.uk/government/news/cma-intervention-leads-to-furtherfacebook-action-on-fake-reviews.

[15] Amazon staff, "Creating a trustworthy reviews experience," About Amazon, June 16, 2021, https://www.aboutamazon.com/news/how-amazonworks/creating-a-trustworthy-reviews-experience.

[16] Sherry He, Brett Hollenbeck, and Davide Proserpio, "The Market for Fake Reviews," Marketing Science 41 no. 5 (2022): 896–921, https://doi.org/10.1287/mksc.2022.1353.

[17] Ibid.

[18] Annie Palmer, "Amazons sues two companies that allegedly help fill the site with fake reviews," CNBC, Feb. 22, 2022, https://www.cnbc.com/2022/02/22/amazon-sues-alleged-fake-reviews-brokers-appsally-rebatest.html.

(16) What alternatives to regulations should the Commission consider when addressing the practices described in Questions 1 through 3, above?

It is imperative that policymakers address the proliferation of online fake reviews. However, regulation at this stage is premature for two reasons. First, and most importantly, there are no widely accepted best practices on how various platforms should stop fake reviews. Second, many companies are still experimenting with different solutions to address this problem.

As an alternative to regulation, the Commission should establish an on-going partnership with review websites, e-commerce sites, and consumer brands to develop voluntary best practices to detect and prevent fake reviews. Collaboration between these parties would allow all parties to share insights on how to better prevent and detect fraudulent reviews, as well as learn how to better partner with law enforcement and consumer protection agencies. Any best practices created should reflect the steps the industry has already taken to address fake reviews and offer standardized processes and solutions that current enterprises and new entrants can easily enact.

Additionally, the Commission should create a public-private partnership with private sector stakeholders to share data related to known bad actors. Better data-sharing could improve automated detection techniques and make it easier to identify bad actors, especially those engaging across multiple platforms or using generative AI to create fake reviews. Additionally, a partnership would help to address the problem of review brokers and would help companies impacted by the same perpetrator to pursue joint legal action.[19]

Finally, the Commission should specifically name fake review brokers in the proposed revisions to the Endorsement Guides. The Commission's proposed revisions include the introduction of a new section, Section 255.1(f), that expands liability for false or unsubstantiated claims or for failing to disclose material connections in consumer endorsements to intermediaries.[20] The proposed section specifically names advertising agencies and public relations firms. The Commission should use this proposed section to name fake review brokers. This would demonstrate the Commission's commitment to stop fake reviews online, introduce liability to fake review brokers for their role in soliciting fake reviews, and provide the legal groundwork to prosecute and stop fake review brokers.

---

[19] Ibid.
[20] Guides Concerning the Use of Endorsements and Testimonials in Advertising, 87 Fed. Reg. 44288 (proposed July 26, 2022).