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FTC Publishes "101" Disclosures Guidance for Social Media Influencers



In November, the FTC [issued](#) a new resource for online social media influencers, titled "[Disclosures 101 for Social Media Influencers](#)," which provides compliance tips for influencers disclosing payment, free products, and other "material connections" in their social media posts.

This new guide is the latest development in an ongoing effort by the FTC to educate influencers on when disclosure obligations apply and how to make effective disclosures. A few takeaways from the new guide follow:

- **Scope of Disclosure Obligations:** Consistent with [the FTC's Endorsement Guides: What People Are Asking](#), the new guide reiterates that influencers must disclose *any* financial, employment, personal, or family relationship with a brand that is a material connection and must not assume that social media followers already know about such relationship.
- **Disclosure Language:** The new guide reminds influencers to keep disclosure language simple and clear and states that, in addition to "[BrandName] Ambassador," a disclosure like "[BrandName] Partner" is an option. ("Partner" is a term the FTC has not previously referenced in influencer-related guidance.)
- **Pictures, Videos, Live Streams:** In addition to following the principle that disclosure must be placed in a hard-to-miss location in the endorsement message itself (and not on an "About Me" page or "profile page"), the new guide again explains that influencers must place disclosures in pictures, videos, or live streams. For example, such disclosures can be superimposed over pictures and embedded *in* videos and livestreams (rather than merely placed in the description). For livestreams, the disclosure should be repeated periodically. And in videos viewers are more likely to notice disclosures made in *both* audio and sound (guidance generally consistent with the FTC's [.com Disclosures Guides](#)).
- **International Posts:** Even if posting from abroad, U.S. laws apply if it is "reasonably foreseeable" the post will affect U.S. consumers (and, of course, foreign laws also might apply). Therefore, influencers should still follow U.S. compliance rules even when posting from abroad.

- **Video Guidance:** The FTC's release also includes a [short video](#) that brands may use as a simple tool to educate influencers.

Finally, the FTC has also recently stated that it is revisiting its [Guides Concerning the Use of Endorsements and Testimonials in Advertising](#) and updated guides might be coming in 2020. The FTC's ongoing evaluation of influencer practices shows that influencers continue to be a point of emphasis for the FTC, and brands should work with their influencers to ensure good faith compliance practices.

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