



NATIONAL CONSUMERS LEAGUE

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January 9, 2023

April Tabor, Secretary of the Commission
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: Reviews and Endorsements ANPR, P214504

The National Consumers League (“NCL” or “the League”), the nation’s pioneering consumer and worker advocacy organization, supports a Federal Trade Commission (“FTC” or “the Commission”) rule to combat unfair and deceptive uses of reviews and endorsements. In October of 2022, NCL joined with other consumer advocates and industry groups to urge FTC action on this issue.¹ Absent a strong federal enforcement response, bad actors will likely continue to distort digital marketplaces, harming both buyers and sellers.

The trustworthiness of user reviews is a critical component of modern commerce. Millions of consumers use these tools every day to inform their decisions to make billions of dollars in purchases from both online and offline businesses. It is difficult—if not impossible—for consumers to accurately judge the quality of goods and services advertised or sold online without trust that reviews are genuine.

¹ “Re: Protecting consumers and businesses from fraudulent reviews,” *National Consumers League*. (October 11, 2022). <https://nclnet.org/wp-content/uploads/2022/10/Review-Enforcement-Letter-FINAL.pdf>

In 2021, fraudulent reviews cost consumers an estimated \$152 billion globally, with \$28 billion in losses in the United State alone.² Additionally, researchers found that by deceiving buyers into purchasing lower quality and potentially unsafe products, fake reviews lead to \$0.12 of consumer welfare lost for every \$1 spent online.³ The FTC can mitigate further losses by considering the practices described in Question 1⁴ and Question 2⁵ of the Advanced Notice of Proposed Rulemaking (“ANPR”) as unfair and deceptive.

In Question 3 of the ANPR, the Commission asks how widespread the sale, purchase, and use for commercial purposes of followers, subscribers, views, and other indicators of social media influence is. NCL urges the Commission to prohibit the listed practices in Question 3, as well as the sale, purchase, and use for commercial purposes of other prominent indicators of social media influence, such as likes, comments, shares⁶ and saves.

While social media platforms’ algorithms for showing content to users differ, key indicators of social media influence that reflect user engagement, such as likes, comments, views, shares, and saves, are highly determinant towards the prevalence of posts across

² “The Economic Cost of Bad Actors on the Internet: Fake Online Reviews 2021,” *Cheq, University of Baltimore*. (2021).

<https://f.hubspotusercontent00.net/hubfs/5228455/Research/Fake%20Online%20Reviews%202021.pdf>

³ Akesson, Jesper, et al. “The Impact of Fake Reviews on Demand and Welfare,” *Marketing Science*. (July 20, 2022). https://conference.nber.org/conf_papers/f166391.pdf

⁴ The Commission lists in Question 1 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; 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.

⁵ The Commission lists in Question 2 the suppression of negative consumer reviews:

a. on retailer websites because the retailers filter out and do not publish negative reviews; or b. by marketers threatening the authors of the reviews (other than through the form contract provisions prohibited by the Consumer Review Fairness Act).

⁶ “Shares” should include reposts, retweets, reblogs, and measures of engagement that track when users send a link to the post externally, such as the one currently utilized by TikTok.

platforms.⁷ The purchase and sale of indicators of social media influence can increase the likelihood of platform algorithms recommending a manipulated post to more users, as it may consider the artificial engagement as genuine user interest.

This can be problematic as unofficially promoting a post in this manner would allow the poster to bypass social media platforms' official advertisement processes, which try to filter out ads with quality and safety issues.⁸ Moreover, viewers of a manipulated post may interpret the inflated indicators of social media influence as verification of the post's content—which in this case, is a review or endorsement of a product.⁹

Fake reviews, endorsements, and indicators of social media influence also negatively impact honest businesses. Sellers and service providers that do not use fake reviews are at a disadvantage when competing against entities that inflate their reviews, as the benefits of fake reviews may last for up to a month—even after deletion or detection.¹⁰ These benefits can be substantial, with up to 9% higher revenue from one additional star on Yelp.¹¹

⁷ Instagram stated that it considers “how quickly other people are liking, commenting, sharing, and saving a post” when determining which posts to promote in its “Explore” tab (from “Shedding More Light on How Instagram Works,” <https://about.instagram.com/blog/announcements/shedding-more-light-on-how-instagram-works>). Facebook's stated that its News Feed algorithm promotes posts with greater engagement as measured by likes, comments, shares, and other metrics (from “How does News Feed predict what you want to see?” <https://tech.facebook.com/engineering/2021/1/news-feed-ranking/>). TikTok stated that its For You algorithm weighs user interactions such as “videos you like or share, accounts you follow, comments you post, and content you create” (from “How TikTok recommends videos #ForYou,” <https://newsroom.tiktok.com/en-us/how-tiktok-recommends-videos-for-you>).

⁸ “TikTok Advertising Policies – Ad Creatives and Landing Page,” *TikTok* <https://ads.tiktok.com/help/article/tiktok-advertising-policies-ad-creatives-landing-page>; “About Meta Advertising Standards,” *Meta*. <https://www.facebook.com/business/help/488043719226449>

⁹ Avram, Mihai, et al. “Exposure to social engagement metrics increases vulnerability to misinformation,” *Misinformation Review*. (July 28, 2020). <https://misinforeview.hks.harvard.edu/article/exposure-to-social-engagement-metrics-increases-vulnerability-to-misinformation/>

¹⁰ Marciano, Jonathan. “Fake online reviews cost \$152 billion a year. Here's how e-commerce sites can stop them,” *World Economic Forum*. (August 10, 2021). <https://www.weforum.org/agenda/2021/08/fake-online-reviews-are-a-152-billion-problem-heres-how-to-silence-them/>

¹¹ Luca, Michael. “Reviews, Reputation, and Revenue: The Case of Yelp.com,” *Harvard Business School*. (2011). https://www.hbs.edu/ris/Publication%20Files/12-016_a7e4a5a2-03f9-490d-b093-8f951238dba2.pdf

The threat of fake negative reviews is also being used to extort honest businesses.¹² With experts ranking review-related factors as four out of the top five determinants towards consumer engagement from Google, the damage from fraudulent reviews can be significant.¹³ Smaller businesses especially may lack the resources to overcome competitors that employ fraudulent positive reviews or purchase negative reviews.

The Commission should require platforms to implement measures to combat unfair and deceptive uses of reviews, endorsements, and indicators of social media influence. Such measures might include purchase verification before allowing a user to leave a review, active policing for potentially violative activity, and platform guidelines that outline acceptable usage of reviews, endorsements, and indicators of social media influence. Additionally, the FTC should explore options to hold platforms accountable should they allow illicit activity to flourish, such as organized review fraud.

NCL supports FTC regulations that would strengthen the reliability of user reviews and endorsements. The Commission should expand the indicators of social media influence beyond the ones listed in the ANPR to cover the full range of algorithmically determinant indicators that may be manipulated, including likes, comments, shares, and saves. Furthermore, the FTC should work to ensure that platforms are combatting fraudulent activities within their jurisdictions.

Finally, the Commission should coordinate with entities with knowledge of organized user review fraud to determine if additional enforcement action is needed. Such coordination could allow the Commission to identify individuals and businesses for receipt of Notices of Penalty Offenses. The Commission has previously used such tools to put

¹² Morales, Christina. "Restaurants Face an Extortion Threat: A Bad Rating on Google," *New York Times*. (July 11, 2022). <https://www.nytimes.com/2022/07/11/dining/google-one-star-review-scam-restaurants.html>

¹³ Shaw, Darrern. "The 2021 Local Search Ranking Factors," *whitespark*. (November 29, 2021). <https://whitespark.ca/gmb-conversion-factors/>

hundreds of entities on notice that their use of fake reviews and other misleading endorsements may violate Section 5 of the FTC Act.¹⁴

Sincerely,

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¹⁴ “FTC Puts Hundreds of Businesses on Notice about Fake Reviews and Other Misleading Endorsement.” *Federal Trade Commission*. (October 13, 2021). <https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-puts-hundreds-businesses-notice-about-fake-reviews-other-misleading-endorsements>