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# Everyone's a Critic: Fake E-Commerce Reviews Undercut the Marketplace

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In the past, most product and service reviews were completed and published by "experts" in the relevant field. For example, known and esteemed fashion critics were tasked with forming opinions about the style and quality of designer clothes, and those opinions, at least on the surface, were backed by the critic's expertise and knowledge of the fashion industry. Today, however, widespread Internet usage has led to an e-commerce market with universal ability to post feedback, thereby creating and perpetuating a platform for anyone wishing to publish his or her own reviews, no matter how limited the basis is for his or her opinions. These DIY consumer reviews are not composed in vain, though, because studies indicate that the majority of consumers read and evaluate other consumers' reviews prior to making online purchasing decisions. Unfortunately, this has led to the manipulation of the review process, with brands, advertisers, and individuals alike engaging in the increasingly prominent practice of posting disingenuous reviews, the purpose of which may be to either encourage the purchase of a product or service, or contrarily, to discourage such a purchase. The fashion industry has begun to realize the infiltration of such sham reviews, and the relevance of this phenomenon will likely intensify as the fashion industry continues to engage in online sales.

## Fake Reviews

The posting of fake reviews has begun to generate regulatory enforcement. The New York Attorney General settled a case against 19 companies engaged in the practice of submitting fake reviews to consumer-review websites, including Yelp, Google Local, and CitySearch. Naming this practice "astroturfing," the Attorney General opined that this practice of posting fake reviews of products and services is the 21st century's version of false advertising, and cautioned merchants against using this practice.

More recently, the Federal Trade Commission (FTC) charged two brothers, Son "Sonny" Le and Bao "Bobby" Le, with creating fake review websites for their trampoline products. Each of the websites used to sell their trampolines featured the "Trampoline Safety of America" logo. Additionally, the brand websites implied official approval by displaying the supposedly independent "Bureau of Trampoline Review" and "Top Trampoline Review" logos. Some of

the logos also appeared with the claim "Trampoline of the Year." Each of these supposed review organizations claimed to provide unbiased evaluations of different trampolines, focusing on safety and performance. All of these "organizations" unreservedly recommended the brothers' trampolines on their websites. Upon investigation, the FTC discovered that Son Le owned all three of these websites, and both brothers controlled the content disseminated on the sites. In fact, these "fake" review websites were allegedly implemented by the brothers to advertise and legitimize their products. The FTC filed a complaint against the brothers, alleging that the brothers had both made false claims about their products on the "fake" websites, and that they had violated §5(a) of the Federal Trade Commission Act by failing to disclose the material connection they had with the Infinity and Olympus Pro trampolines. Ultimately, the FTC and the Les settled on an order that prohibits them from presenting misleading reviews of their products. Additionally, the settlement requires the Le brothers to clearly and conspicuously disclose any material connections between their companies and a consumer, reviewer, or endorser, or another entity connected to the product.

The FTC has also pursued fashion retailers for failing to disclose material connections between themselves as the advertiser, and endorsers of their products. In March 2016, the FTC filed an administrative complaint against Lord & Taylor, alleging that the department store had deceived customers by failing to disclose a material connection between the retailer and fashion merchandise. Lord & Taylor commissioned 50 social media influencers to post Instagram pictures of themselves wearing the same paisley dress. In order to accomplish this, Lord & Taylor provided the dress at no cost and paid monetary compensation to the influencers. Per the contracts, Lord & Taylor approved all potential posts, each of which failed to disclose the financial connection between the advertiser and the influencer. The FTC alleged that by failing to disclose that the posts were paid promotions, Lord & Taylor breached federal advertising regulations. Ultimately, the FTC and Lord & Taylor settled the matter. The resulting consent order stipulated that Lord & Taylor must clearly and conspicuously disclose material connections with endorsers.

On closer analysis, the FTC's treatment of both undisclosed paid endorsements and fabricated, illegitimate reviews on retail or review sites seems consistent. A failure to disclose material connections between the reviewer or endorser, and the advertiser or product, may be considered evidence of intent to deceive the public and affect purchasing decisions. Although the Lord & Taylor case does not specifically address fake reviews in the fashion industry, it does reflect the FTC's desire to maintain clear and conspicuous disclosure of material connections between products and those commenting on the products, whether they be endorsers or reviewers. The FTC appears to require candor in both cases to avoid deception of consumers.

As manipulation of the consumer review process continues to be a concern for the e-commerce market, various stakeholders have pursued other avenues to combat the publication and effect of fake or astroturfed reviews. Amazon, one of the world's largest online retailers, has taken several different approaches to limit unsubstantiated and falsified reviews. First, it adopted a policy that prohibits use of the consumer review function in a manner that delegitimizes the process. Amazon has enforced this policy by pursuing claims against merchants on its site for posting fake reviews of products with which the merchant is directly associated. Amazon has gone so far as to file arbitration claims against individual sellers, asserting that the sellers used "sock puppet" accounts to post fake reviews about

their products. In these arbitration actions, Amazon sought to ban merchants who had manipulated Amazon's market place and the review system to their own advantage. Through these actions, Amazon evidences a persistence to maintain the integrity of its consumer review process.

Manipulation of the review process has also been discussed in response to stories that some retailers are requiring consumers to remove negative reviews prior to processing a consumer requested refund. It has been alleged that certain low cost fashion companies, advertised largely on social media sites such as Facebook and Instagram, fulfil consumer orders with deficient products, and when the consumer posts a negative review of the product and requests a refund, they leverage the refund against consumers, requiring the removal of the negative review before refunding the purchase price to the dissatisfied consumer. Additionally, these companies have been known to remove negative reviews and comments from their own Facebook profiles, which they use as their marketplace for selling the clothing, thereby skewing their online review presence in their favor. Although the FTC has not yet taken any specific action against these fashion companies, it has reportedly received many complaints from disgruntled consumers regarding these practices. As such, we would not be surprised if the FTC decided to pursue an investigation of these clothing companies' consumer review practices in the future.

## **Activist Reviews**

Recently, the fashion industry was directly affected by a different category of fake reviews, that being activist reviews. Activist fake reviews often aim for the opposite effect of most fake reviews—they seek to inhibit, not boost, product sales. It is likely that those composing and publishing activist reviews have never purchased or even used the products they purport to review. A topical example of this is the recent surge in online reviews of Ivanka Trump's fashion lines. In the fallout of Donald Trump's presidential victory, online trolls have utilized the review function available on sites like Amazon, where Ivanka Trump's products are sold, as a vehicle to criticize President Trump and his extended family. These reviews are often composed with intentional comicality. Documented examples of such activist reviews include, "Too restrictive, tight, Not enough room for growth, will only fit the 1%," a comment on one of Ivanka's stiletto shoes reads, and "These boots are perfectly designed to trample on fellow Americans' Civil Rights Day or Night." (In fairness, it has been argued that such activist reviews are not as damaging to brands as other types of fake reviews might be, as this type of "fake" review does not make misleading comments as to the adequacy of the product itself.)

It is important to note that activist reviews like this, even if drafted in jest, may still impact a consumer's purchasing decision, thereby affecting the legitimacy of the consumer review process. Some consumers look exclusively to the star rating of a review to determine whether they would like to purchase a given product, therefore increasing the impact of the star rating system in the absence of any context provided by the accompanying written comment.

## **Conclusion**

As fashion retailers continue to move to e-commerce platforms, the issues surrounding fake reviews of products will continue to linger. Fake reviews of products, whether to increase or diminish sales, affect the overall legitimacy and reliability of consumer reviews. This will remain a constant hurdle for third-party retailers, review sites, regulatory agencies, and other stakeholders that aim to preserve such legitimacy, as fake reviewers discover new and inventive ways to publish reviews that are not based on actual use of a given product. Brands should closely monitor what is being said about their products and be diligent in their attempts to take down and correct unauthentic posts or those that fail to disclose a material connection.

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