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Federal Trade Commission's new rule on fake reviews could apply to your business

When the Federal Trade Commission's new rule on fake reviews went into effect in October 2024, many businesses might have shrugged it off, thinking, "Well, we're not creating fake reviews — this doesn't apply to us."

But here's the catch: The rule goes beyond punishing blatant fakes. It digs into practices that even well-intentioned companies might not realize are walking the line.

What's new, what's the same, and what's surprising

The rule officially bans writing, buying and selling fake reviews, which most companies already know is a big no-no. What's significant is how the rule defines what's considered "false or misleading" and the costly new fines attached.

Here are a few ways companies could unintentionally run afoul of the new rule:

1. *Suppressing negative reviews:* If you host reviews on your own website (in a way that suggests you're representing most/all submitted reviews), you can't suppress the negative ones. Even with a content moderation policy in place, your process must be neutral and consistently applied. For example, that means you can't take down a negative review because it uses profanity but keep up a positive post with that same language.

2. *Endorsements and influencers need full disclosure:* If you're paying or incentivizing influencers to hype your brand, they need to make proper disclosures. The rule requires clear and conspicuous disclosures about any relationship between the reviewer and the company.

3. *That means your mom, too:* Similarly, the rule prohibits a company's officers, managers, immediate relatives and employees from writing reviews about the business without disclosing their relationship. There's some nuance here in terms of what management solicited or was aware of, but basically your mom shouldn't be out there posting glowing reviews of your products without letting people know she's your #ProudParent.

4. *Watch your "celebrity" testimonials:* Businesses are prohibited from writing or creating reviews that misrepresent a reviewer's experience with a product or service. Think about hiring a radio DJ or podcaster to plug your product, for example. Be careful with marketing scripts that would imply they've used (and liked) the product if

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SLATs and the 2025 estate tax shift: How to secure today's rates

Estate planning is about preparing for the future, and right now there's some big uncertainty around what that future holds for estate and gift taxes.

One major reason is the upcoming "sunset" of the 2017 Tax Cuts and Jobs Act (TCJA) at the end of 2025. The "sunset" of a law or provision refers to a built-in expiration date after which the law or provision will no longer be effective unless it is actively renewed or extended by lawmakers.

If Congress doesn't extend these provisions, the current $13.61 million federal estate tax exemption per individual will be cut in half, dropping to roughly $7 million.

This rollback, along with the possibility of additional legislative changes, has some high-net-worth families looking for ways to secure today's tax benefits before they potentially vanish.

One strategy to consider is a Spousal Lifetime Access Trust.

What is a SLAT and how does it work?

A Spousal Lifetime Access Trust, or SLAT, is an irrevocable trust set up by one spouse for the benefit of the other spouse (and potentially other family members, such as children or grandchildren).

The main advantage is that it allows the spouse who creates the trust, known as the grantor, to transfer assets out of their taxable estate, reducing future estate tax liability while still providing indirect access to the assets through their spouse.

Here's how it works:

- *Funding the SLAT:* The grantor transfers assets, such as cash, stocks or a business interest, into the SLAT. Because the trust is irrevocable, the assets are no longer part of the grantor's estate, cutting down on estate taxes.
- *Tax benefits:* If the SLAT is set up before the current higher exemption sunsets, the transferred assets will be protected under today's more favorable limits. That makes it a "use it or lose it" situation since the exemption may decrease significantly in 2025.
- *Spousal access:* Although the assets are no longer in the grantor's estate, the spouse can still benefit from them. The trustee can make distributions to the spouse for things like health, education and living expenses. This setup offers financial flexibility and security while meeting estate tax planning goals.

Potential drawbacks

While SLATs offer several benefits, they aren't without risks:

- *Irrevocability:* Once created, the SLAT can't be undone.
- *Death and divorce risk:* Since the trust benefits the grantor's spouse, divorce would terminate that access. Likewise, if the non-grantor spouse dies first, the grantor spouse loses indirect access to trust assets.
- *Reciprocal trust doctrine:* If both spouses create SLATs for each other, the IRS might treat them as reciprocal trusts, pulling the assets back into their estates. That risk can be managed by structuring the trusts differently.

A SLAT can be a valuable tool for locking in today's tax benefits amid changing laws. Talk to an attorney to determine if a SLAT fits your needs.

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Invitation Homes pays $48 million settlement in FTC investigation

Invitation Homes has agreed to pay a $48 million settlement following a Federal Trade Commission probe into allegations of junk fees and deceptive practices.

The case marks the first enforcement action under the FTC's newly formed Renters Working Group.

Invitation Homes owns or manages more than 100,000 homes in the U.S., making it the country's largest single-family landlord. Between 2021 and 2023, the company collected tens of millions of dollars in junk fees as part of consumer rental payments, the FTC alleges.

Hidden fees and deceptive pricing

According to the FTC complaint, Invitation Homes misled renters by advertising lower rental prices that didn't reflect mandatory junk fees. Those fees, which added over $1,700 to renters' annual costs, included charges for services such as smart-home technology and utility management.

But first, consumers would pay non-refundable application fees up to $55 and reservation fees up to $500 based on the deceptively advertised rates. Only after paying those fees — and sometimes after signing the lease — did they discover the true cost. Since 2019, Invitation Homes has collected more than $18 million in application fees alone, according to the FTC.

Unfair eviction and security deposit practices

The complaint also details how Invitation Homes unfairly withheld security deposits, charging tenants for normal wear-and-tear or pre-existing damages. The company returned just 39.2 percent of renters' security deposits between 2020 and 2022, much lower than the national average of 63.9 percent.

Additionally, during the COVID-19 pandemic, Invitation Homes is accused of engaging in unfair eviction practices. The FTC alleges the company discouraged tenants from using federal eviction protections and pursued eviction proceedings, even against renters who had already moved out.

Settlement reached

Invitation Homes has agreed to a settlement that includes paying $48 million in refunds to affected renters. The company must also stop its deceptive pricing practices, ensure transparency with rental fees, and implement fairer policies around security deposits and evictions.

Supervised visitation: When is it necessary and how does it work?

Supervised visitation is a court-ordered arrangement that a court might order in which a neutral third-party adult, such as a social worker or child development expert, supervises visits between a child and the non-custodial parent. This usually takes place in a designated location agreed upon by the parties.

Though supervised visitation is nobody's preferred arrangement for seeing their kids, family courts prioritize the child's best interest, and in certain situations courts think supervised visitation is the best option to keep a child safe while still maintaining the parental relationship.

For example, supervised visitation is frequently ordered when the non-custodial parent has a mental illness or substance abuse disorder that could impair their judgment and pose a risk to the child's safety.

A court might also order supervised visitation if the non-custodial parent is deemed unable to provide a safe, secure environment for the child in their home. The court might make the same judgment if the parent has a past history of domestic violence, child abuse or neglect.

Additionally, supervised visitation may be appropriate when the child has gone a long time without contact with the noncustodial parent, either due to estrangement, geographical distance, or other factors. A supervised setting can be seen as a safe, supportive environment to rebuild a child's connection with the parent. The neutral third party typically has the training to be able to facilitate communication and help rebuild the connection.

If you are going through a separation, divorce or custody proceeding and you're concerned about your child's safety in an unsupervised setting with the other parent, you should talk to an attorney about petitioning for a supervised visitation arrangement with that parent. Similarly, an attorney can help you try and fight an ex-spouse's attempt to limit your contact with your kids to supervised visitation.

How the FTC's new rule on fake reviews might apply to you

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they haven't.

5. *Handle negative reviews with care:* Spot a bad review online? You can absolutely reach out to a disgruntled customer to try and make things right. But if your "fix" is tied to a condition that they revise or remove their bad review, that's crossing the line. The FTC's stance is clear: you can't bully or incentivize people to clean up their reviews.

Other "no fake reviews" rules include prohibitions against incentivizing reviewers contingent on specific feedback, creating a separate website that appears to be an independent review site, and buying fake social media indicators such as followers, friends, views or likes.

The penalties for breaking these rules are significant. A single instance of a deceptive review could result in a fine of over $51,000 — potentially multiplied on a "per view" basis.

What companies should do now

The bottom line is that this new rule ramps up enforcement risks. To stay on the right side of the FTC, companies should understand the nuances of the new rules and update policies accordingly. Ensure that all employees, endorsers and marketing teams are trained on what constitutes a fake review or testimonial under the new rule.

Additionally, if you display reviews on your website, make sure your content moderation is transparent and fair across the board. And ensure full disclosure on all endorsements, no matter how small the relationship.

As always, if you're unsure whether your review practices comply with the new FTC rule, it's a good idea to consult legal counsel.

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I was hit by someone with inadequate insurance. Is there anything I can do about it?

Millions of car accidents happen each year that cause injuries and property damage. Even if the harm isn't particularly severe, dealing with the aftermath can be a real headache. Fortunately, if it's not your fault, the at-fault party's insurance generally covers the harm. But what if the wrongdoer doesn't have sufficient insurance to pay for the damages? Or what if they have no insurance at all?

In such cases, you should check your insurance policy, or have an attorney look over your policy for you. You may have what is known as "uninsured motorist coverage," often referred to as "UM" or "UIM" coverage. This is insurance that covers your losses beyond what other party's insurance will pay. However, your UIM protection is limited by the amount of coverage you have purchased.

Beyond that, you may be able to take the other driver to court to recover for your injuries. However, you should realize that drivers with only the bare minimum in insurance coverage are unlikely to be able to pay the full extent of your property damage and injuries. This means any court victory could be an empty one.

Your safest choice is to protect yourself ahead of time by making sure your own policy provides an adequate level of UIM coverage. It may not cost you all that much to buy more protection, and it could ultimately be worth its weight in gold. Talk to an attorney near you to learn more.