

# Developments in Advertising and Consumer Protection in Cyberspace

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## I. INTRODUCTION

Since the Internet became ubiquitous, concerns have been raised regarding how best to protect consumers barraged with new forms of advertising. Under a new federal administration, there are unresolved questions about whether federal agencies will change trajectory in the types and rigor of their enforcement actions. For example, Maureen K. Ohlhausen, acting chairman of the Federal Trade Commission (“FTC”), the principal federal enforcer of laws relating to advertising and consumer protection, has indicated her intent to focus on cases that involve “concrete consumer injury.”<sup>1</sup> Complementing the existing self-regulation, state legislatures and attorneys general are becoming increasingly concerned with advertising in cyberspace. The confluence of these methods of regulation has created an upward trend toward disclosure and clarity for consumers.

In this survey we will discuss federal, state, and industry trends in advertising and consumer protection in three different cyberspace-specific subject areas: (1) tracking consumers, (2) data security representations and procedures, and (3) consumer reviews and endorsements.

## II. TRACKING CONSUMERS

Many issues have arisen over the last year in connection with the tracking of consumers through the use of Internet technology or mobile phone applications, commonly known as “apps.” Generally speaking, the concerns lie in whether the tracking is properly disclosed to consumers, or whether consumers would have reason to know that their data use, and sometimes location, was being tracked and stored. The purpose of tracking is usually to allow targeting of advertisements to consumers, based on their current location or their browsing history. Thus, advertising and consumer tracking go hand-in-hand in the Internet age.

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1. Maureen K. Ohlhausen, Acting Chairman, Fed. Trade Comm’n, Opening Keynote at the ABA 2017 Consumer Protection Conference 4–5 (Feb. 2, 2017), [https://www.ftc.gov/system/files/documents/public\\_statements/1069803/mko\\_aba\\_consumer\\_protection\\_conference.pdf](https://www.ftc.gov/system/files/documents/public_statements/1069803/mko_aba_consumer_protection_conference.pdf).

The following discusses some recent developments involving tracking of on-line activity and of the user's location.

#### A. COLLECTION OF CONSUMER USAGE DATA

In April 2017, the FTC agreed to a consent order with Turn, Inc., an advertising technology company, regarding its methods of collecting data about consumers' use of their mobile phones.<sup>2</sup> The FTC alleged that Turn misrepresented to consumers the methods by which it tracked them and their ability to opt out of such tracking.<sup>3</sup>

In another case, the FTC and the Attorney General of New Jersey agreed to a stipulated order for permanent injunction and monetary judgment against VIZIO, Inc. The complaint alleged that VIZIO, a manufacturer of Internet-connected televisions, collected and shared consumers' viewing data without properly disclosing this collection to consumers, while also misrepresenting the purposes of its data collection.<sup>4</sup>

These cases indicate that the FTC is likely to consider misrepresentations about online tracking or information collection to be deceptive, in violation of the FTC Act.

#### B. LOCATION TRACKING

Advertising companies can use a mobile phone's location features to provide targeted advertising through the use of geotagging<sup>5</sup> and geotargeting.<sup>6</sup> These technologies provide information on a consumer's physical location, and allow companies to provide targeted advertising based on that location.<sup>7</sup> The collection and use of this information is of concern, as it can provide companies with information far beyond what consumers expect they are sharing.

Consumers understand, in the abstract, that they are being tracked, but are generally unaware of the extent of the tracking, and largely find the tracking

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2. *In re Turn, Inc.*, No. C-4612 (F.T.C. Apr. 6, 2017) (decision and order).

3. *Digital Advertising Company Settles FTC Charges It Deceptively Tracked Consumers Both Online and Through Their Mobile Devices*, FED. TRADE COMMISSION (Dec. 20, 2016), <https://www.ftc.gov/news-events/press-releases/2016/12/digital-advertising-company-settles-ftc-charges-it-deceptively>. The case is discussed in further detail elsewhere in this survey. See John Black & James R. Steel, *Privacy Developments: Private Litigation, Enforcement Actions, and Settlements*, 72 *BUS. LAW.* 177, 182–83 (2017).

4. See Complaint at 9–10, *FTC v. VIZIO, Inc.*, No. 2:17-CV-00758 (D.N.J. Feb. 6, 2017). The case is discussed in further detail elsewhere in this survey. See Kathleen A. Murphy, *Recent FTC Regulation of the Internet of Things*, 72 *BUS. LAW.* 289, 290–91 (2017).

5. "Geotagging" is "the process of adding geographical information to various media in the form of metadata. The data usually consist of coordinates like latitude and longitude, but may even include bearing, altitude, distance and place names." *Geotagging*, TECHOPEDIA, <https://www.techopedia.com/definition/86/geotagging> (last visited June 28, 2017).

6. "Geotargeting" is "the practice of delivering content to a user based on his or her geographic location. This can be done on the city or zip code level via IP address or device ID, or on a more granular level through GPS signals, geo-fencing, and more." Lauryn Chamberlain, *GeoMarketing 101: What Is Geotargeting?*, *GEOMARKETING* (Mar. 31, 2016, 5:16 PM), <http://www.geomarketing.com/geomarketing-101-what-is-geo-targeting>.

7. *Id.*

technology to be intrusive.<sup>8</sup> In response, several bills have been introduced in Congress and state legislatures, requiring certain information to be disclosed to consumers and requiring provision of opt-out options. The most recent successful bill was passed by the Illinois legislature. The Geolocation Privacy Protection Act prohibits companies from collecting, using, storing, or disclosing geolocation information from a consumer's mobile device without providing a statutorily sufficient notice and obtaining the consumer's "affirmative express consent."<sup>9</sup> As of this writing, the bill is awaiting the governor's signature to become law.

The past year has also seen some regulatory actions relating to locational tracking. In June 2017, the FTC settled with InMobi Pte Ltd., an advertising company based in Singapore, which it charged with making misrepresentations about its tracking of consumers, its use of geotargeted advertising, and with violating the Children's Online Privacy Protection Act.<sup>10</sup>

In some situations location tracking can reveal a consumer's sensitive health-related information. This sort of tracking was involved in an Assurance of Discontinuance between the Massachusetts Attorney General and Copley Advertising, LLC ("Copley"), and its employee, John F. Flynn.<sup>11</sup> Copley partnered with third-party entities to provide geo-fencing services. This technology "enables it to 'tag' a smartphone or other internet-enabled mobile device that enters or leaves an area near a specific location."<sup>12</sup> Once a smartphone or mobile device has been tagged, Copley displays targeted advertising on the consumer's device for a certain amount of time after the consumer was in that location.<sup>13</sup>

Copley contracted with two entities offering pregnancy counseling and adoption services to provide geo-fencing around women's reproductive health services facilities in several states.<sup>14</sup> The technology sent advertisements for pregnancy options to the phones of women who entered the waiting rooms of these facilities, including Planned Parenthood.<sup>15</sup> Consumers receiving these advertisements were not aware that their mobile phone or device had been tagged, or that Copley was disclosing the history of their physical location to third par-

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8. A 2010 study found that "[a]bout 20% of participants want the benefits of targeted advertising, but 64% find the idea invasive, and we see signs of a possible chilling effect with 40% self-reporting they would change their online behavior if advertisers were collecting data." Aleecia M. McDonald & Lorrie Faith Cranor, *Americans' Attitudes About Internet Behavioral Advertising Practices*, in PROCEEDINGS OF THE 9TH ANNUAL ACM WORKSHOP ON PRIVACY IN THE ELECTRONIC SOCIETY 63 (2010).

9. H.B. 3449, 100th Gen. Assemb. § 10(a) (Ill. 2017).

10. *Mobile Advertising Network InMobi Settles FTC Charges It Tracked Hundreds of Millions of Consumers' Locations Without Permission*, FED. TRADE COMMISSION (June 22, 2016), <https://www.ftc.gov/news-events/press-releases/2016/06/mobile-advertising-network-inmobi-settles-ftc-charges-it-tracked>. The case is discussed in further detail elsewhere in this survey. See Black & Steel, *supra* note 3, at 183.

11. Assurance of Discontinuance Pursuant To G.L. 93A at para. 5, *In re Copley Advertising, LLC*, No. 1784CV01033 (Mass. Super. Ct. Apr. 4, 2017).

12. *Id.* at para. 6.

13. *Id.* at paras. 4, 6.

14. *Id.* at paras. 4, 10.

15. *Id.* at paras. 9–10.

ties that would use the location to infer information about the consumer's physical or mental health.<sup>16</sup>

The Assurance states that, in the view of the Massachusetts Attorney General, this conduct would be an unfair or deceptive act in violation of Massachusetts law if it occurred in the state.<sup>17</sup> By signing the Assurance, Copley and Flynn agreed not to geo-fence any area within 250 feet of a healthcare facility.<sup>18</sup>

### III. DATA SECURITY REPRESENTATIONS AND PROCEDURES

In the past year the FTC took action against several companies that falsely stated they participate in a privacy certification program, such as TRUSTe or the Asia-Pacific Economic Cooperation Cross-Border Privacy Rules system.<sup>19</sup>

Another focus of regulators' concern is the failure to implement reasonable security practices. In a decision that has been appealed to the U.S. Court of Appeals for the Eleventh Circuit, the FTC concluded that LabMD, Inc., a laboratory providing testing services for doctors, violated the FTC Act's unfairness standard by its failure to implement reasonable data security practices.<sup>20</sup> The FTC determined that the reasonable data security measures not adopted by LabMD included, among other things, failure to update protective software, failure to track intrusions into its network, and failure to detect the existence of file sharing programs on an employee's computer.<sup>21</sup> The FTC found that these failures caused, or were likely to cause, substantial injury to consumers that consumers could not reasonably avoid, and that the harm to consumers was not outweighed by countervailing benefits.<sup>22</sup>

State attorneys general have also been mindful of data security and the methods by which companies store and protect consumer information. In *In re Adobe Systems, Inc.*, fifteen state attorneys general entered an Assurance of Voluntary Compliance with Adobe Systems, Inc. ("Adobe") relating to its data security practices.<sup>23</sup> In 2013, Adobe learned that an intruder had breached its computer system and obtained personal information about its customers.<sup>24</sup> The attorneys general took the position that Adobe had failed to employ reasonable security measures against reasonably foreseeable attacks, in violation of state consumer protection laws, including state unfair and deceptive trade practices acts.<sup>25</sup>

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16. *Id.* at para. 12.

17. *Id.* at para. 15.

18. *Id.* at paras. 19–20.

19. See *In re SpyChatter, Inc.*, No. C-4614 (F.T.C. Apr. 12, 2017) (decision and order); *In re Sentinel Labs, Inc.*, No. C-4608 (F.T.C. Mar. 29, 2017) (decision and order); *In re Vir2us, Inc.*, No. C-4609 (F.T.C. Mar. 29, 2017) (decision and order).

20. *In re LabMD, Inc.*, No. 9357, 2016 WL 4128215 (F.T.C. July 28, 2016), *motion for stay pending appeal granted*, 678 F. App'x 816 (11th Cir. 2016).

21. *Id.* at \*2.

22. *Id.* at \*14–24.

23. Assurance of Voluntary Compliance, *In re Adobe Sys. Inc.*, No. 16-3460H (Mass. Super. Ct. Nov. 7, 2016), [http://www.ct.gov/ag/lib/ag/press\\_releases/2016/adobe\\_assuranceofvoluntary\\_compliance.pdf](http://www.ct.gov/ag/lib/ag/press_releases/2016/adobe_assuranceofvoluntary_compliance.pdf).

24. *Id.* at paras. 7–9.

25. *Id.* at paras. 10–13.

While denying that it violated those laws, Adobe agreed to improve its security protections and pay \$1 million to the states.<sup>26</sup>

Moving forward, companies should ensure that they not only take proper steps to protect consumer information, but that they properly disclose such protections to consumers. The failure to do so could expose them to liability for unfair or deceptive practices.

#### IV. REVIEWS AND ENDORSEMENTS

Consumers often do not have a reason to know the source of product reviews or endorsements. As a result, regulating agencies have brought actions against entities that do not properly disclose interested sources. Companies such as Yelp and Instagram have taken steps to self-regulate, creating policies to prevent the manipulation of reviews and to provide appropriate disclosure of endorsements. Below, we discuss the impact of material connections between reviewers or endorsers, liability for misrepresentations in endorsements, and industry self-regulation.

##### A. APPLICATION OF THE ENDORSEMENT GUIDES

Consumer reviews, especially those appearing on social media, can have a large impact on a business's revenue, especially for small, consumer-facing companies. One study found that "a one-star increase in Yelp rating leads to a 5–9 percent increase in revenue" for restaurants.<sup>27</sup> In a culture where individuals are constantly connected and able to choose among a smorgasbord of options, reviews for products and businesses are particularly important.

The FTC's *Endorsement Guides* address, among other things, the use of social media by influencers to endorse certain products.<sup>28</sup> The term "social media influencer" refers to "a user on social media who has established credibility in a specific industry. A social media influencer has access to a large audience and can persuade others by virtue of their . . . reach."<sup>29</sup> Social media influencers usually make posts on social media sites such as Instagram, posing with certain products and often writing a message regarding the influencer's support of the product.<sup>30</sup>

The *Endorsement Guides* require proper disclosure of any material connection between an endorser and an advertiser.<sup>31</sup> In addition, the *Guides* state that if an

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26. *Id.* at paras. 20–32.

27. Michael Luca, *Reviews, Reputation, and Revenue: The Case of Yelp.com* 2 (Harv. Bus. Sch., Working Paper No. 12-016, 2016), [http://www.hbs.edu/faculty/Publication%20Files/12-016\\_a7e4a5a2-03f9-490d-b093-8f951238dba2.pdf](http://www.hbs.edu/faculty/Publication%20Files/12-016_a7e4a5a2-03f9-490d-b093-8f951238dba2.pdf).

28. See FED. TRADE COMM'N, THE FTC'S ENDORSEMENT GUIDES: WHAT PEOPLE ARE ASKING (2015), [https://www.ftc.gov/system/files/documents/plain-language/pdf-0205-endorsement-guides-faqs\\_0.pdf](https://www.ftc.gov/system/files/documents/plain-language/pdf-0205-endorsement-guides-faqs_0.pdf). The *Guides* themselves are at 16 C.F.R. pt. 255 (2017).

29. *Definition of Social Media Influencer*, PIXLEE, <https://www.pixlee.com/definitions/definition-social-media-influencer> (last visited June 27, 2017).

30. Christina Newberry, *Influencer Marketing on Social Media: Everything You Need to Know*, HOOTSUITE (Apr. 19, 2017), <https://blog.hootsuite.com/influencer-marketing/>.

31. 16 C.F.R. § 255.5 (2016).

influencer makes a false statement in an endorsement of a product, both the endorser and the advertiser may be held liable.<sup>32</sup>

In an April 2017 blog posting, the FTC drew attention to the requirement to disclose material connections.<sup>33</sup> The post noted that the FTC had recently sent more than ninety letters to both Instagram influencers and the marketers of the endorsed products.<sup>34</sup> These letters provide that a material connection between an advertiser and an influencer must be “clearly and conspicuously” disclosed.<sup>35</sup> A material connection is one that “might affect the weight or credibility that consumers give the endorsement” and “could consist of a business or family relationship, monetary payment, or the provision of free products.”<sup>36</sup>

The potential liability for failure to disclose a material connection between an endorser and an advertiser, and for misrepresentations in endorsements, is emphasized in a series of recent actions. The FTC, state enforcement agencies, and private litigants have brought claims based on such conduct.

In December 2016, the FTC filed a complaint against Aura Labs, Inc. and its chief executive officer, Ryan Archdeacon, in the U.S. District Court for the Central District of California.<sup>37</sup> The FTC alleged that the defendants committed unfair and deceptive acts and practices when advertising and reviewing the company’s blood pressure mobile application (the “App”). The App was advertised as using various methods of measurement and consumer-supplied information to determine the consumer’s blood pressure after being held against the consumer’s chest in a specific manner.<sup>38</sup>

Aura Labs advertised the App through the use of a website and information available on the Apple and Google app stores.<sup>39</sup> The App was advertised as being able to “measure[] blood pressure as accurately as a traditional blood pressure cuff,” but according to the complaint “studies demonstrate[d] clinically and statistically significant deviations between the App’s measurements and those from a traditional blood pressure cuff.”<sup>40</sup> In addition to these representations, Archdeacon wrote a “five star” review in the Apple App Store stating that “[t]his app is a breakthrough for blood pressure monitoring.”<sup>41</sup> Similarly, relatives of the co-founder of Aura Labs provided endorsements of the App that

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32. *Id.* § 255.1(d).

33. Lesley Fair, *Influencers, Are Your #materialconnection #disclosures #clearandconspicuous?*, FED. TRADE COMMISSION (Apr. 19, 11:13 AM), <https://www.ftc.gov/news-events/blogs/business-blog/2017/04/influencers-are-your-materialconnection-disclosures>.

34. A sample of these letters is available at [https://www.ftc.gov/system/files/attachments/press-releases/ftc-staff-reminds-influencers-brands-clearly-disclose-relationship/influencer\\_template.pdf](https://www.ftc.gov/system/files/attachments/press-releases/ftc-staff-reminds-influencers-brands-clearly-disclose-relationship/influencer_template.pdf) (last visited June 28, 2017).

35. *See id.*

36. *See id.*

37. Complaint for Permanent Injunction and Other Equitable Relief, *FTC v. Aura Labs, Inc.*, No. 8:16-cv-2147 (C.D. Cal. Dec. 2, 2016).

38. *Id.* at para. 12.

39. *Id.* at para.14.

40. *Id.* at para. 15.

41. *Id.* at para. 16.

were featured on Aura Labs' website.<sup>42</sup> The sources of the review and website endorsements were not disclosed to consumers, and the FTC alleged that such knowledge "would materially affect the weight and credibility consumers assigned to the endorsement."<sup>43</sup>

The FTC alleged that the claims regarding the accuracy and effectiveness of the blood pressure cuff were false or unsubstantiated.<sup>44</sup> Further, the FTC alleged that the use of endorsements was deceptive, as they were portrayed as being the conclusions of unaffiliated consumers using the App, when the endorsements were made by interested parties, in violation of the FTC Act.<sup>45</sup> The FTC and Aura Labs agreed to an injunction on the endorsement claims, as well as a suspended monetary judgment.<sup>46</sup>

In May 2017, the FTC filed a complaint and consent order in another case involving false and deceptive endorsements, this one involving online endorsements of trampolines.<sup>47</sup>

State enforcement authorities too have applied the rules stated in the *Endorsement Guides* to undisclosed connections between influencers and advertisers. In December 2016 the New York Attorney General announced a settlement agreement with MedRite Care, LLC. The Attorney General found that Medrite "paid thousands of dollars to internet advertising companies and freelance writers to write positive reviews of Medrite on consumer-review websites."<sup>48</sup> The reviewers had not been required to visit a Medrite location prior to leaving a review and it was never made clear to consumers visiting the website that the reviewers had left the review in exchange for money.<sup>49</sup> A similar settlement was reached in connection with a car service that was providing discounts to consumers in exchange for leaving positive reviews on consumer review websites.<sup>50</sup> The Attorney General stated his position that "paying for a positive review without disclosing the payment would lead a reasonable consumer to believe that the review was a neutral, third-party review" and that "[i]ncentivizing customers to provide favorable reviews without disclosing such payments is a form of false advertising and a deceptive trade practice" in violation of New York law.<sup>51</sup>

The undisclosed use of influencers with a material connection to the advertiser may also form the basis for claims in private actions, as illustrated by actions

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42. *Id.* at para. 18.

43. *Id.* at paras. 17, 19.

44. *Id.* at para. 24.

45. *Id.* at para. 26–28.

46. See *FTC v. Aura Labs, Inc.*, No. 8:16-cv-2147 (C.D. Cal. Dec. 9, 2016) (order for permanent injunction and monetary judgment).

47. Complaint and Consent Order, *In re Le*, No. C-4619 (F.T.C. July 5, 2017) (settling claims that trampoline sellers deceptively referred consumers to purportedly independent ratings websites that they themselves controlled).

48. A.G. Schneiderman Announces Settlement with Medrite Urgent Care and Carmel for Paying for Positive Reviews Online, N.Y. ATT'Y GEN. (Dec. 2, 2016), N.Y. ATT'Y GEN., <https://ag.ny.gov/press-release/ag-schneiderman-announces-settlement-medrite-urgent-care-and-carmel-paying-positive>.

49. *Id.*

50. *Id.*

51. *Id.*

filed against Fyre Media, Inc. in connection with its doomed music festival, Fyre Festival. In a class action filed May 2, 2017, a putative class of festival attendees allege that Fyre Media acted in a deceptive and misleading manner, citing among other things its use of social media influencers.<sup>52</sup> Plaintiffs allege that, in an effort to promote the music festival, Fyre Media “recruited and compensated over 400 ‘public figures’ with at least 10,000 unique social media followers.”<sup>53</sup> The influencers that were paid to promote the Fyre Festival on Instagram allegedly include, among others, Kendall Jenner, Bella Hadid, and Emily Ratajkowski.<sup>54</sup> Promotional materials depicted the island in the Bahamas where the festival was to be held as “breathtaking” and “luxurious,” but the actual conditions were allegedly “horrific” and the festival was cancelled.<sup>55</sup> The complaint alleges that the sponsored posts violated the FTC’s *Endorsement Guides* because there was no disclosure that they were paid to promote the festival.<sup>56</sup> The complaint further alleges that the advertising in connection with the influencers was a basis for negligent misrepresentation<sup>57</sup> and unfair, deceptive, and misleading advertising.<sup>58</sup>

The trend of holding influencers liable for their claims will likely continue to trend upwards, as the FTC and other agencies and groups encourage influencers and sponsors to inform consumers of any material connections.

## B. INDUSTRY SELF-REGULATION

Platforms for consumer reviews, such as Yelp, have been taking action to combat fraudulent reviews. Yelp has a policy of issuing “consumer alerts,” which are shown to consumers visiting the page of a business that Yelp has identified as paying for positive reviews or otherwise manipulating its reviews or ratings.<sup>59</sup> Through independent investigation and software, Yelp is able to identify reviews that are not authentic and are intended to boost the profile of the company.<sup>60</sup>

Instagram has recently responded to the concerns created by marketers using its website and app to advertise using influencers. In a recent blog post, the social media company announced that it will roll out a “[p]aid partnership with” tag, which will inform the consumer which branded posts are made by individuals with a material connection to the advertiser.<sup>61</sup> Instagram has incentivized the use of this tag by allowing advertisers to view performance and engagement

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52. Complaint, *Chinery v. Fyre Media, Inc.*, No. BC659938 (Cal. Super. Ct. May 2, 2017).

53. *Id.* at para. 24.

54. *Id.*

55. *Id.* at paras. 30–37.

56. *Id.* at para. 25. There was and could be no claim premised on violation of the *Enforcement Guides*, which create no private right of action.

57. *Id.* at paras. 49–50.

58. *Id.* at paras. 43–47.

59. *What Are Consumer Alerts?*, YELP SUPPORT CTR., [https://www.yelp-support.com/article/What-are-Consumer-Alerts?l=en\\_US](https://www.yelp-support.com/article/What-are-Consumer-Alerts?l=en_US) (last visited Sept. 11, 2017).

60. *Id.*

61. *Why Transparency Matters: Enhancing Creator and Business Partnerships*, INSTAGRAM BUS. BLOG (June 14, 2017), <https://business.instagram.com/blog/tagging-and-insights/>.



metrics of specific posts that utilize the tag.<sup>62</sup> The decision to promote, and incentivize, this method of disclosure emphasizes that the industry is moving toward a more complete disclosure of relationships between advertisers and influencers and appears to acknowledge the potentially problematic nature of such relationship.

Calls for better disclosure of sponsored content have ranged beyond Instagram. The Council of Better Business Bureaus' Children's Advertising Review Unit found that a prominent YouTube channel aimed at children failed to include adequate disclosures of payments from advertisers.<sup>63</sup>

The Council of Better Business Bureaus' National Advertising Division (the "Division") recently challenged endorsements of dubious product claims on a lifestyle blog.<sup>64</sup> The lifestyle blog "Goop" made claims that certain dietary supplements were being taken by the blog's founder, Gwyneth Paltrow, and hyperlinked to a landing site where the consumer could purchase the supplement.<sup>65</sup> The Division provided a decision stating that the combination of the product endorsement, as well as the product claims, that were viewable on Goop created a duty for Goop to verify its claims.<sup>66</sup> The Division went on to note that "[w]hen marketing products for sale, an advertiser has an obligation to insure that the claims it makes for the product are truthful, accurate, and not misleading."<sup>67</sup>

## V. CONCLUSION

We expect that the trend toward requiring full and accurate disclosure will continue. Moving forward, advertisers and technology companies should make sure that disclosures of their privacy policy and data security methods, as well as their tracking and information gathering, are accurate. For advertisers working with influencers or with consumer-review websites or endorsements, fully disclosing any material connections or relationships to endorsers is a must.

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62. *Id.*

63. "EvanTube" YouTube Channels to Disclose Sponsored Videos as Advertising Following CARU Inquiry, ASRC (Sept. 12, 2016), <http://www.asrcreviews.org/evantube-youtube-channels-to-disclose-sponsored-videos-as-advertising-following-caru-inquiry/>.

64. Lifestyle Site "Goop" Says It Will Voluntarily, Permanently Discontinue Claims for Moon Juice "Brain Dust," "Action Dust" Following NAD Inquiry, ASRC (Aug. 9, 2016), <http://www.asrcreviews.org/lifestyle-site-goop-says-it-will-voluntarily-permanently-discontinue-claims-for-moon-juice-brain-dust-action-dust-following-nad-inquiry/>.

65. *Id.*

66. *Id.*

67. *Id.*

