Game Reviews

You are an intern for an independent video game development company. Your supervisor asks you to write and post under your own name rave reviews for games that are made by your company, regardless of what you think about the games. These reviews will be visible on various websites to people who are considering purchasing the games. When you object to using your own name, your boss tells you just to make up a new screen name and use that. What should you do?

Based on a dilemma submitted by a former MBA student

Takeaway Lessons

1) **Deception.** Do you intend for another person to be deceived? Is another person deceived? If the answers to those two questions are “yes,” the changes are high that what you’re doing is deceptive—a lie.

2) **Your reputation.** Your boss has asked you to use your own name for posting reviews. Digital footprints last a long time–these reviews will be archived and available to search engines for a long time. How do you feel about having your name associated forever with things you do not think are true? Does that matter to you?

3) **Application of regulatory standards.** See attached.

Issues

- Deception: misleading people reading the views
- Violating your own standards of conduct
- Advancement in company
- Company reputation

Rules and Regulations

- Review website groundrules for posting / disclosing identity and conflicts of interest
- Review regulations on reviews/testing from the publishers of the reviews
- Company code of conduct
- Federal rules and regulations, e.g., FTC

Relevant Questions

- Will readers of the website assume that this kind of thing is going on and discount reviews?
- How will this look if it a story on this appears in the Wall St. Journal?
- If this review inflation is discovered, how will it affect the company’s reputation? Your reputation?
- What will be the consequences for me if I say I do not want to do it?
- Is the situation different because I am an intern, rather than a full time employee?
- What do I think of my boss, who has asked me to lie using my name, or “just” to use another name?

Available Resources

- Your boss
- Another company employee
- Company code of conduct
- Friends or family
- Websites on what to do when you are being asked to do something unethical at work
- People who do the same job at another company
- The company helpline

Available Options

- Ask your boss if there is anything else you can do instead of this project; suggest you might be better at other tasks
- Post positive reviews of company games
- Post balanced reviews
- Don't post about games you cannot say something positive about
- Try to persuade boss that sincere reviews are more persuasive
- Show your boss the recent FTC action against company bloggers misrepresenting themselves

Developed by Gretchen Winter and C. K. Gunsalus with assistance from Michael Brandess.
The Federal Trade Commission (FTC) recently announced that it has entered into a consent order with a public relations agency whose employees posted positive reviews about the firm’s clients’ products within iTunes. This is the first enforcement action involving the FTC’s endorsement guidelines, which were recently updated to apply to social media, and makes it clear that employers can be held responsible for encouraging their employees’ online conduct.

The FTC endorsement guidelines require that bloggers discussing or reviewing products or services disclose any connection between the endorser and the marketer of the product that would affect how people evaluate the posting.

This means that if a person is an employee of the marketer of the product, receives compensation (which could be free product) for reviewing or making a statement about the product, or is a client of the marketer of the product, that relationship should be disclosed. While extensive disclosures may be difficult on Facebook, Twitter or in other social media, disclosures can be as simple as “Company X gave me this product to try . . .” on a blog or “#sponsored,” “#paid” or “#ad” on Twitter.

The FTC alleged that the public relations firm engaged in deceptive advertising by having employees pose as ordinary consumers posting game reviews at the online iTunes store, when the employees did not disclose that the reviews came from paid employees working on behalf of the game developers. While in this case employees of an agency were involved, the same principles would appear to apply to employees who blog about their employer’s products. In fact, the New York Attorney General took action against a cosmetic surgery company who had its employees place false postings about the company’s services.

The FTC action makes it even clearer that employers cannot encourage or condone false or deceptive blog postings about their company’s (or their customers’) products. Employers should have written policies in place which (if the policy allows employers to blog about the employer’s products or services) require employees to disclose their connection to the employer when discussing the employer’s products.

For more information, please contact the Seyfarth attorney with whom you work, or any attorney on our website.

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