



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 chances 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	Your reputation in cyberspace
Violating your own standards of conduct	Applicable personnel rules
Advancement in company	Applicable/developing legal/standards
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	A mentor
Another company employee	Fellow interns
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

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One Minute Memo®

FTC Takes Action Against Employee Bloggers

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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