

## Sensa-ble Guidance on Consumer Testimonials

Char Pagar, a partner in the Advertising, Marketing and Promotions Group with VLP Law Group, recently published an article with *Corporate Counsel Magazine* titled, "**Sensa-ble Guidance on Consumer Testimonials.**" In this article, Pagar covers the Federal Trade Commission's (FTC) requirements for paid endorsements in the advertising world.

In January of 2104, the Federal Trade Commission reached a settlement regarding allegedly misleading advertising by Sensa, a company that sells flavor crystals sprinkled on food and claimed to reduce people's appetites. This case contains an important lesson for marketers, especially marketers who use consumer endorsements in their tactics.

The FTC claimed that Sensa had promised consumers cash, travel incentives and other compensation before consumers gave their testimonials for the product. According to the FTC, this ultimately deceived the public about the popularity of the product because Sensa failed to disclose in its ads that payments had been made to consumers as compensation for their endorsements. It is an important reminder to marketers to get an honest opinion before offering any incentives.

This concept of information disclosure was included in the FTC's "Guides Concerning the Use of Endorsements and Testimonials in Advertising," which was published in 1980 and updated in 2009. These Guides require "full disclosure when there exists a connection between the endorser and the seller of the advertised product that might materially affect the weight or credibility of the endorsement."

Although the disclosure standard is fairly high, advertisers can compensate their consumer endorsers without running into the FTC paid endorsement disclosure requirement if an honest consumer opinion is obtained before any compensation is offered or promised. Once the opinion is obtained about a product, then an advertiser can offer to pay the consumer for the use of that opinion.

To read the full *Corporate Counsel Magazine* article, please [click here](#). (subscription required)