

Promotional Blogging

The Office of Fair Trading (OFT) has recently taken the first enforcement action of its kind against a blogging network which did not make it clear that companies were paying it to write promotional content about them. The content produced was published on a number of website blogs and social networking sites, such as Twitter. The OFT considered this breached consumer protection legislation and required the blogging network to sign undertakings that it would not repeat the unfair conduct.

What does consumer protection legislation prohibit?

Consumer protection legislation provides a general prohibition on unfair commercial practices. Your business must not:

- Mislead consumers through acts or omissions. For example:
 - a business falsely tells a consumer their boiler cannot be repaired and they will need a new one. This constitutes a **misleading action**.
 - a business sells a satellite television package to a consumer, without indicating that sports channels are only available at an additional subscription cost. This constitutes a **misleading omission**.
- Subject consumers to aggressive commercial practices. For example, bringing a consumer to a holiday club presentation with no means of getting home unless they sign a contract.

What are the key implications of the OFT's recent enforcement action?

If your business produces any promotional activity (whether online or offline), you must clearly identify when promotions and editorial comment were paid for so consumers are not misled.

Using third-party blogs or advertorials to promote your goods and services

Your business should:

- Avoid writing blogs that appear to be written by a consumer. This type of blog is considered unfair under consumer protection legislation and enforcement action could be brought against your business.
- Be very careful when using advertorials to promote your goods and services. An advertorial is an advertising feature that looks like an article. Advertising codes of practice require advertorials to be clearly labelled as such and recognisably different from other editorial material. They also state that any testimonials included in the advertorial must be genuine.

If you have any questions about the content of this e-mail, please contact me using the details below.

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Be very careful when using advertorials to promote your goods and services.

If you have any questions about the content please contact David Lee of the Company Commercial team on 02476-234-265 or e-mail davidl@n-v.co.uk