

# FTC Orders 8 Social Media Giants to Report on Their Efforts Combating False Advertising and Scams

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**PRACTICES** Intellectual Property, Trademark and Advertising, Advertising, Marketing and Promotional Law, Social Media

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On March 16, 2023, the Federal Trade Commission voted 4-0 to issue Section 6(b) Orders to eight social media and video streaming platforms, including Meta, Instagram, YouTube, TikTok, Twitter, Pinterest, and others. Within 45 days of receiving the orders, these companies must either divulge how they have monitored and reviewed advertising on their platforms since 2019 or petition to limit or quash the Section 6(b) Orders.

The FTC is seeking information about how these platforms “scrutinize paid commercial advertising that is deceptive or exposes consumers to fraudulent health-care products, financial scams, counterfeit and fake goods, or other fraud.”<sup>1</sup> Consistent with the FTC’s focus on adequate disclosures, it is also seeking information about how the platforms ensure that consumers are able to identify commercial advertising on their platforms as advertising.<sup>2</sup>

Section 6(b) Orders are an investigative tool and do not directly lead to enforcement like the FTC’s more frequently publicized Section 5 power, which often imposes civil penalties.<sup>3</sup> Instead, the Commission characterizes this inquiry as a market study. During the meeting, Chair Lina Khan voiced her curiosity over whether a platform’s short-term material interest in driving engagement conflicts with its ability and desire to monitor fraud.

This move is not unexpected considering the FTC’s recent focus in the area. The FTC issued similar orders to nine well-known social media and video streaming platforms just over two years ago, seeking information on how these services collect, use, and present information, as well as how they advertise, and how those advertisements impact children and teens.<sup>4</sup> Last year, it initiated the process of revising its Endorsement Guides<sup>5</sup> and .Com Disclosures<sup>6</sup>, doled out fines<sup>7</sup> and lawsuits<sup>8</sup> for dishonest reviews, and announced it is considering a rulemaking that would allow it to more easily impose civil penalties for fake online reviews and deceptive endorsements.<sup>9</sup> Finally, just last month, the Commission launched the Office of Technology in effort to keep up with an ever-changing digital marketplace.<sup>10</sup>

Today’s inquiry into the advertisement monitoring practices of platforms will likely inform the final updates to its Guides, potential rulemaking, and even enforcement actions moving forward. It also sends a clear warning for all online businesses to have solid advertisement policies and monitoring practices in place to ensure they can comply with a similar order if the FTC should ever come calling.

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<sup>1</sup> [https://www.ftc.gov/system/files/ftc\\_gov/pdf/P224500-Social-Media-6b-Model-Order.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/P224500-Social-Media-6b-Model-Order.pdf)

<sup>2</sup> [https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-issues-orders-social-media-video-streaming-platforms-regarding-efforts-address-surge-advertising?utm\\_source=govdelivery](https://www.ftc.gov/news-events/news/press-releases/2023/03/ftc-issues-orders-social-media-video-streaming-platforms-regarding-efforts-address-surge-advertising?utm_source=govdelivery)

- <sup>3</sup> <https://www.ftc.gov/about-ftc/mission/enforcement-authority>
- <sup>4</sup> <https://www.ftc.gov/news-events/news/press-releases/2020/12/ftc-issues-orders-nine-social-media-video-streaming-services-seeking-data-about-how-they-collect-use>
- <sup>5</sup> <https://www.federalregister.gov/documents/2022/07/26/2022-12327/guides-concerning-the-use-of-endorsements-and-testimonials-in-advertising>
- <sup>6</sup> <https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-looks-modernize-its-guidance-preventing-digital-deception>
- <sup>7</sup> <https://www.ftc.gov/news-events/news/press-releases/2022/01/fashion-nova-will-pay-42-million-part-settlement-ftc-allegations-it-blocked-negative-reviews>
- <sup>8</sup> <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-states-sue-rental-listing-platform-roomster-its-owners-duping-prospective-renters-fake-reviews>
- <sup>9</sup> <https://www.ftc.gov/news-events/news/press-releases/2022/10/ftc-explore-rulemaking-combat-fake-reviews-other-deceptive-endorsements>
- <sup>10</sup> <https://www.ftc.gov/news-events/news/press-releases/2023/02/ftc-launches-new-office-technology-bolster-agencys-work>