

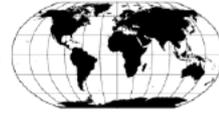
International Consumer Protection and Enforcement Network

ONLINE REVIEWS & ENDORSEMENTS

**ICPEN GUIDELINES FOR TRADERS & MARKETING
PROFESSIONALS**



JUNE 2016



WHAT IS ICPEN?

The International Consumer Protection and Enforcement Network (ICPEN) is an organisation comprised of consumer protection authorities from around 60 countries. ICPEN's aim is to protect consumers' economic interests around the world, share information about cross-border commercial activities that may affect consumer welfare, and encourage global cooperation among law enforcement agencies.

For further information, please visit the ICPEN website at www.icpen.org.

Online Reviews and Endorsements project

On 1st July 2015, the Competition and Markets Authority (United Kingdom) assumed the Presidency of ICPEN and identified online reviews and endorsements as a focus of work for its 2015/2016 presidency year – see [here](#). These guidelines are the product of the Online Reviews and Endorsements project group brought together under the ICPEN UK Presidency.

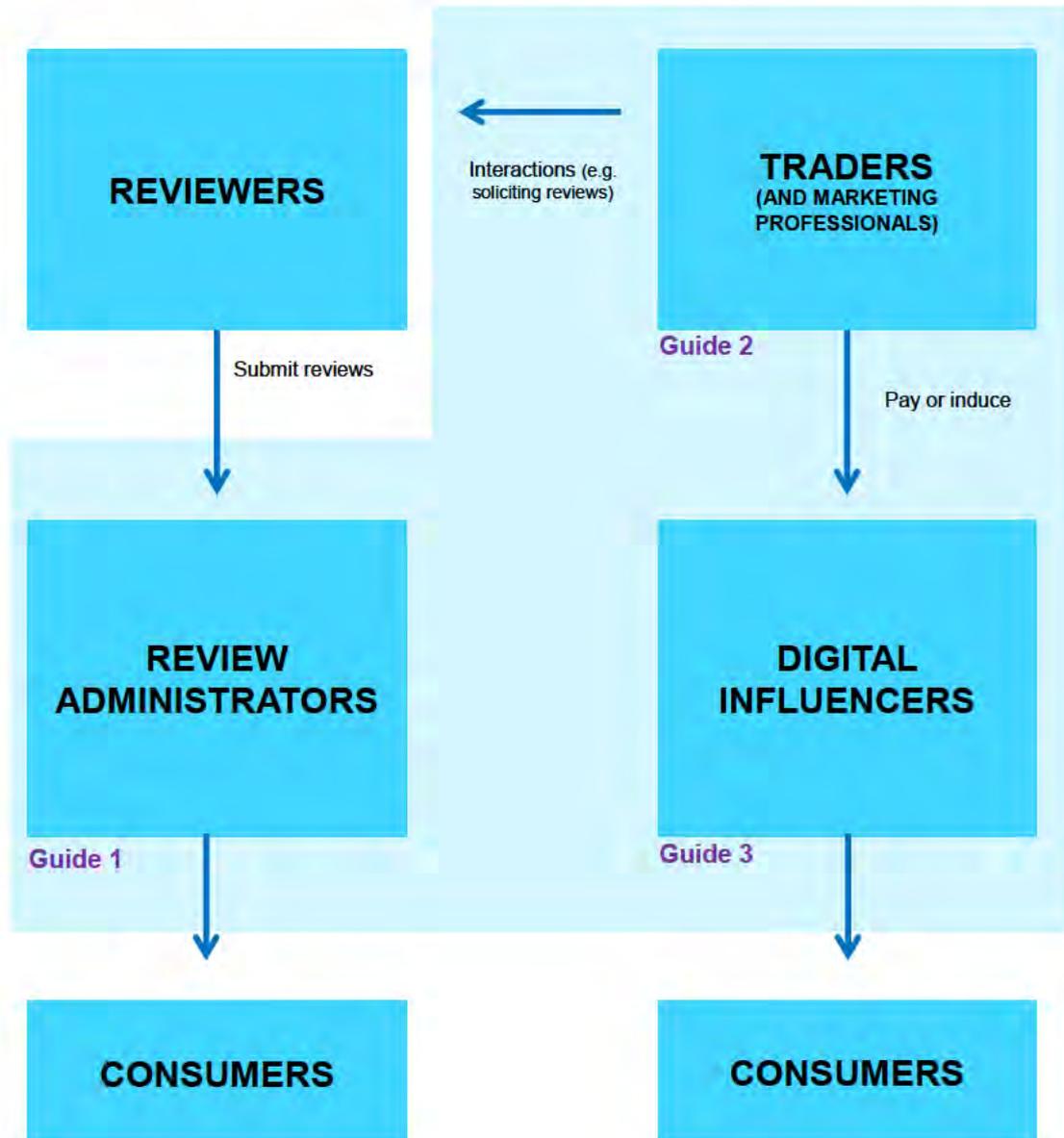
The guidelines have been developed by ICPEN members to help traders and marketing professionals to act appropriately in relation both to online reviews and to endorsements that may be made by bloggers and other digital influencers.

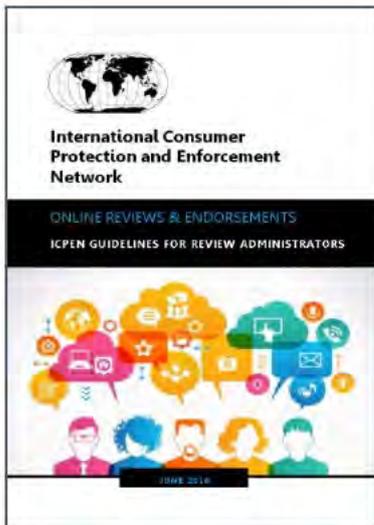
These guidelines provide general guidance to traders and marketing professionals. At their core, the guidelines reflect basic truth-in-advertising principles in ICPEN member countries. However, the guidelines do not provide shelter from liability in any ICPEN member country. ICPEN enforcers must assess conduct under their national laws, on a case-by-case basis, and will remain free to take action to address any conduct which infringes their national laws, whether or not it technically complies with any aspect of these guidelines. Moreover, the guidelines cannot cover every issue associated with online reviews and endorsements or every principle of law in every ICPEN member country. Traders and marketing professionals should still carry out their own assessment of the legal requirements in any country in which they operate.

This guide is part of a wider set of materials in relation to online reviews and endorsements. Specifically, the materials cover guidance for review administrators (Guide 1), traders and marketing professionals (Guide 2) and digital influencers (Guide 3) – illustrated on page 4. The materials provide guidance for some of the participants in the functional chain, as identified diagrammatically on page 3.



Figure 1. Online reviews and endorsements functional chain



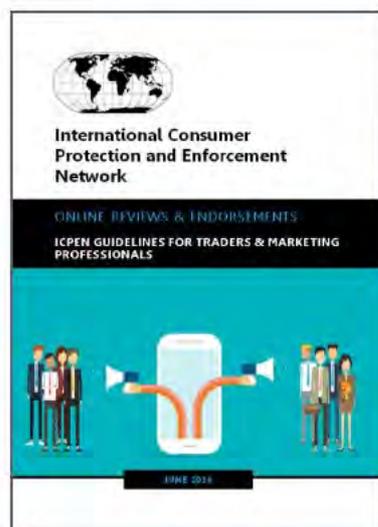


Guide 1: ICPEN Guidelines for Review Administrators

This guide provides guidance to **review administrators**. A review administrator is an organisation or individual that processes consumer reviews.

Review administrators should be guided by the following key principles:

- be equal and fair in the collection of reviews;
- be alert and proactive in the moderation of reviews; and
- be transparent in the publication of reviews.



Guide 2: ICPEN Guidelines for Traders and Marketing Professionals

This guide provides guidance to **traders and marketing professionals** on online reviews and endorsements.

Traders and marketing professionals should be guided by the following key principles:

- do not prevent consumers from seeing the whole picture of genuine, relevant and lawful reviews;
- do not write, commission or publish fake reviews;
- disclose paid-for content clearly and prominently; and
- disclose other commercial relationships where they may be relevant to the content.

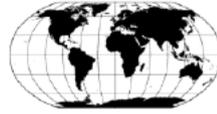


Guide 3: ICPEN Guidelines for Digital Influencers

This guide provides guidance to **digital influencers**, for example bloggers, vloggers, tweeters, and contributors to online publications.

Digital influencers should be guided by the following principles:

- disclose, clearly and prominently whether content has been paid for;
- be open about other commercial relationships that might be relevant to the content; and
- give genuine views on markets, businesses, goods and services.



INTRODUCTION – THE IMPORTANCE OF ONLINE REVIEWS AND ENDORSEMENTS

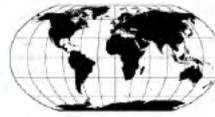
Online reviews and endorsements are a growing tool used by consumers and businesses when buying and selling products and services. Businesses are also devoting more time and money to managing their reputations online (see the box overleaf).

Online reviews and endorsements allow consumers to easily access a wide variety of opinions on brands and products, and use them to better inform their purchasing decisions. They also provide businesses with an important source of feedback to allow them to improve their products and services.

However, if an online review or endorsement is not based on a genuine user experience, or displays elements of bias without appropriate disclosure (such as where it has been paid for or solicited without appropriate disclosure), this can have a negative impact on consumers and competition:

- consumers can be misled into taking decisions that they would not otherwise have taken (for example, purchase decisions), and consumer trust in online reviews is diminished;
- competitors who do not engage in misleading practices are penalised at the expense of traders who do, or are damaged by false reviews posted by competitors.

In light of the importance of this issue, the purpose of these guidelines is to set clear principles in relation to the relevant activities of traders and marketing professionals (including search engine optimisers).



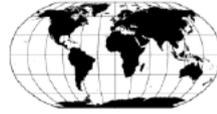
Managing businesses' reputations online

The growing impact of online reviews and endorsements – and their potential impact on sales – is reflected in the online reputation management practices of businesses. These practices include promoting businesses' own published or paid for content and responding actively to content that has been published about them.

Businesses can promote their brands by, for example: placing advertorials or sponsoring articles in online publications, recruiting bloggers to support marketing campaigns, maintaining a profile in social media through brand ambassadors, and offering incentives to their customers to write reviews (e.g. entry to a competition or a discount on the next purchase).

Businesses can also respond to negative content, for example by replying to comments in social media or on review platforms and so offering their side of the story, or by submitting take-down requests to remove false, defamatory or abusive content on review platforms.

As the examples above show, businesses (and the marketing professionals that they use) can engage with online reviews and digital influencers in ways that enable them to market their goods and services to consumers and also protect their brands from unfair comment. However, when following such practices, it is important that they do not act unfairly themselves, for example by hiding advertising or blocking publication of genuine and lawful reviews.



TRADERS AND MARKETING PROFESSIONALS

These guidelines provide guidance to:

- **traders** that seek to promote their goods and services, or their brands, on review platforms or in blog posts, video blogs, tweets or online publications; and
- **marketing professionals**, including search engine optimisers,¹ that seek to promote their clients' goods and services, or brands, on review platforms or in blog posts, video blogs, tweets or online publications.

The guidelines are relevant to these businesses whether they are involved in funding, commissioning, facilitating or arranging the placement of content on review platforms or in blog posts, video blogs, tweets or online publications.²

KEY PRINCIPLES FOR TRADERS AND MARKETING PROFESSIONALS

Traders and marketing professionals should be guided by the following principles:

In relation to online reviews:

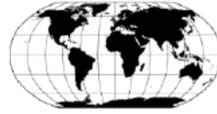
- **do not prevent consumers from seeing the whole picture of genuine, relevant and lawful reviews;** and
- **do not write, commission or publish fake reviews.**

In relation to blog posts, video blogs, tweets or online publications:

- **where content is paid-for, ensure that this fact is disclosed clearly and prominently;** and
- **where other commercial relationships may be relevant to the content, ensure that this fact is disclosed also.**

¹ Search engine optimisers may place content on review platforms or in blog posts, video blogs, tweets or other online media in order to obtain a higher placing for their client on a search engine's search results page.

² Traders that operate their own review platforms, or pay another business to do so on their behalf, should also read the *ICPEN Guidelines for Review Administrators*.



GUIDELINES IN RELATION TO ONLINE REVIEWS

Be fair and impartial when soliciting reviews from customers

Traders and marketing professionals should not offer inducements or rewards to customers in return for writing **positive** reviews about businesses, products or services on review sites. If some form of encouragement is offered to customers to write reviews, it should be available without conditions attached, including whether they will write a positive or a negative review.

Never pretend to be a consumer and write fake reviews

Traders and marketing professionals should never pretend to be a consumer and write reviews about their own (or their clients') goods and services or about their competitors'. Nor should they instruct someone else (e.g. employees, associates, family or friends) to write a fake positive review about their business or a fake negative review about another business.

Identify advertising and other commercial relationships

Traders and marketing professionals should request that advertising and other marketing content is clearly identifiable to the review platform's users as paid-for content (whether the payment is financial or otherwise). They should not ask reviewers or review platforms to hide this information.

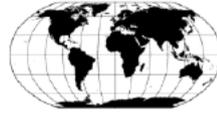
More generally, they should request that review platforms disclose to platform users any relevant commercial relationships that exist with their business, for example where they pay the platform to solicit reviews on their behalf or to display their reviews more prominently.

Be fair when challenging reviews

Traders and marketing professionals may reasonably challenge a review platform on reviews that they believe are fake, defamatory or otherwise in breach of the law or the review platform's own rules. However, they should not object to reviews simply because they do not like the reviewer's opinion or because they think they can force the review platform to take down a negative review.

Ensure that internal processes are fit for purpose

Traders and marketing professionals should check that their staff training materials, internal policies, corporate brochures, contracts and related material accurately reflect the requirements of national laws on the points listed above.



GUIDELINES IN RELATION TO BLOG POSTS, VIDEO BLOGS, TWEETS OR ONLINE PUBLICATIONS

Require advertising and other marketing content to be labelled clearly and prominently

Traders and marketing professionals should ensure that advertising and other marketing content is clearly identifiable to readers/viewers. All parties involved – whether instructing, facilitating, arranging or publishing – should take responsibility to ensure that paid-for content is labelled properly and that the disclosure is displayed prominently.

Disclose commercial relationships

Traders and marketing professionals should be open about relevant commercial relationships. They should not ask bloggers, vloggers, tweeters, online publications or other digital influencers to hide this information from consumers.

Disclosure of a commercial relationship may be appropriate regardless of whether the digital influencer has been paid, or is otherwise obliged, to write or talk about a product/service at a particular time. For example, a business may pay a celebrity to promote their brand, but may not have paid him or her to tweet a particular endorsement; nonetheless, it may well be appropriate for the tweeter to tell readers that they have a commercial relationship with the business.

Give clear instructions to intermediaries and publishers

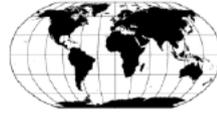
Traders and marketing professionals should provide clear instructions to intermediaries (e.g. marketing professionals) and publishers (e.g. bloggers and other digital influencers) that paid-for content and other relevant commercial relationships should be identified – for example, that there should be clear and prominent labelling.

Ensure that internal processes are fit for purpose

Traders and marketing professionals should check that their staff training materials, internal policies, corporate brochures, contracts and related material accurately reflect the requirements of national laws on the points listed above.

Say ‘no’ to non-compliant businesses

Traders and marketing professionals should turn down requests or proposals from businesses to facilitate, arrange or publish advertising or other marketing content that would not include proper disclosure.



ICPEN MEMBER ORE RESEARCH & GUIDANCE

Australia:

<http://www.accc.gov.au/business/advertising-promoting-your-business/managing-online-reviews>

Canada:

<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/03782.html>

Denmark:

<http://www.consumerombudsman.dk/~media/Consumerombudsman/dco/Guidelines/Guidelines%20on%20publication%20of%20user%20reviews.pdf>

France:

<http://www.afnor.org/en/news/news/2013/july-2013/a-world-first-france-adopts-a-standard-enabling-reliable-processing-all-online-consumer-reviews>

Norway:

<https://forbrukerombudet.no/english/guidelines/user-reviews-in-marketing-short-version>

United Kingdom:

<https://www.gov.uk/cma-cases/online-reviews-and-endorsements>

United States of America:

<https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>

<https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-endorsement-guides-what-people-are-asking>

https://www.ftc.gov/system/files/documents/public_statements/896923/151222deceptiveenforcement.pdf

<https://www.ftc.gov/tips-advice/business-center/guidance/native-advertising-guide-businesses>



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