

ONLINE REVIEWS – ARE THEY FREE?

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Importance of online reviews

Now more than ever, consumers are able to disseminate their feelings about companies and products to thousands of strangers online. Be it on their own or brand's social media pages, review websites or a particular brand's website, online reviews are now a part of life and can have a huge effect on our purchasing decisions. So, it is no wonder that this area is one that the Australian Competition and Consumer Commission (ACCC) has taken a keen interest in.

We spoke about the importance of testimonials in our previous publication available at <http://anisimoff.com.au/publication/lma1/>, and as outlined in that publication, testimonials (which include online reviews) must be genuine. However, there is more to a testimonial being genuine, than the mere fact the consumer has written it or indicates they believe it. Namely, what circumstances was the review or testimonial provided under? If the reviewer is paid or incentivised to provide a particular review or testimonial, then legitimate questions are raised as to the impartiality of such a reviewer and, in turn, their review.

Is it free?

While offering incentives for reviews can be done, doing so for positive reviews only is bound to create an imbalance that could cause consumers to be misled. This is highlighted by a recent action taken by the ACCC in respect to an incentive program run by True Value Solar Pty Ltd.

In that instance, True Value Solar Pty Ltd offered customers a free solar panel service for publishing a positive review on the online platform www.productreview.com.au. With its action, the ACCC confirmed what we all knew; that offering incentives for positive reviews alone risks misleading consumers and breaching the Australian Consumer Law (ACL), as consumers will likely hold a reasonable belief that published reviews are genuine and independent.

True Value Solar Pty Ltd agreed to terminate its incentive program upon being contacted by the ACCC, and no further action was taken in this instance, however, there is no guarantee that the ACCC would not take a much harder stance with the next offender it identifies. Further details in relation to the True Value Solar Pty Ltd matter are available at <http://www.accc.gov.au/media-release/true-value-solar-discontinues-incentives-for-positive-online-reviews>.

What does this mean for you?

The above action by the ACCC does not bring about any change in the law; it simply reinforces the ACCC's long-standing position regarding online reviews. Of course, this is not to say that you cannot offer incentives for reviews at all. You can, however when doing so, the incentive should clearly be offered for all reviews (be they positive, negative or neutral) and the fact an incentive was offered must also be made clear whenever such reviews are published. Ultimately, transparency is key.

Contact us

If you would like further information on online reviews or testimonials generally, and how they impact on you or your clients, please contact one of our experts below. We can provide tailored legal and practical advice to assist you in navigating the ever-expanding world of online reviews.

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