

## The FTC is Watching Blogger Endorsements

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Ann Taylor Loft, the popular women's clothing store, learned the hard way that the Federal Trade Commission is intent on enforcing its new Guides on Endorsements and Testimonials. While Ann Taylor Loft escaped serious fines, the FTC's recent investigation triggered a change in the way the company handles blogger endorsements and disclosures.

### Here's what happened

The investigation was prompted by an Ann Taylor Loft preview of its summer collection. The Loft invited bloggers to the event and offered them a "special gift" for attending. In addition, those who blogged or posted comments about the summer collection were entered into a drawing to win between \$50 and \$500.

The issue? Not all of the bloggers disclosed the material connection created by the special gift and drawing.

Ann Taylor Loft did post signs at the preview telling bloggers that they should disclose the gifts when they posted comments. But the FTC had questions about how many bloggers saw the signs. Nevertheless, the FTC has decided not to fine Ann Taylor Loft, in part because the company adopted a written policy to not issue gifts to bloggers without first telling them that they must disclose receipt of the gift. The FTC also said that it expects Ann Taylor Loft to "honor that written policy and take reasonable steps to monitor bloggers' compliance with the obligation to disclose gifts."

### Lessons learned

The Ann Taylor Loft investigation provides valuable insight into the types of incentives that qualify as material connections, as well as the appropriate steps a company should take to make sure bloggers comply with the FTC Guides on Endorsements and Testimonials. Companies that make use of bloggers or other forms of social media advertising or promotion would be well-served to keep this in mind.

If you have any questions regarding the FTC Guides on Endorsements and Testimonials or the implications of this investigation, please contact Janet Ramsey, chairperson of the Advertising and Marketing Law Group at Warner Norcross & Judd LLP.