



FTC Tries to Stay One Step Ahead of Internet Fraud

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The FTC's recent settlement with a California-based Internet marketer may provide a good example of why the Commission is revising its online advertising guidelines. The FTC announced last Thursday that it has reached a settlement with Jaivin Karnani, his company, Balls of Kryptonite, and several associated companies. The settlement resolves charges that the FTC brought against the Karnani in 2009 for allegedly deceptive tactics in marketing products to consumers in the United Kingdom. The defendant allegedly misled British purchasers that his company, which sold a variety of electronics online, was based in the U.K. The ruse was accomplished by tactics like using foreign website domains ending in .co.uk, listing prices in British pounds, and asserting that good purchased would be shipped via "Royal Mail."

British purchasers consequently believed that the websites were U.K.-based and therefore covered by Britain's strong consumer protection laws for sales over the Internet (which, for instance, allow for return of purchases within seven days of receipt and full refunds for cancelled transactions and returned goods). Purchasers also believed that products would be covered by full warranties (which did not, in fact, apply to overseas purchases).

Among the terms of the settlement, Karnani and his companies will no longer be able to pose as U.K.-based.

The case highlights new complications faced by consumers and regulators in dealing with Internet sales and marketing. Just as people can create fictional personalities online through avatars and the like, so too can companies create artificial existences. How easy it is to create a false front when you don't need to start with bricks and mortar! Karnani's alleged shenanigans and manipulation of domain names provide a good example of the many things regulators and consumers need to look out for.

Such challenges, and the evolving dynamics of online marketing and sales, are part of why the FTC recently announced its plans to overhaul current Internet advertising guidelines. The current guidelines date back to 2000 and are pretty basic. In effect, they simply pronounce that consumer protection standards that apply to more traditional media also apply to the Internet.

The Commission's announcement regarding the guidelines overhaul, which requests public comment through July 11, notes its seeks to address more specifics on the



technical and legal issues of online marketing and sales, from dynamics of social media to “Apps” to pop-up blockers.

It obviously remains to be seen what exactly the new guidelines will address, but they may reflect issues brought out by this case. Other likely issues to be addressed, as we’ve seen them come up in FTC enforcement actions and as we have addressed them in this blog, are (1) [multi-party selling arrangements \(e.g., affiliate marketing\)](#) and (2) [privacy concerns over online tracking of consumer data](#).

We’ve been monitoring the public comments regarding the new guidelines and will post developments of interest.

FTC Beat is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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