



FTC Files Suit Against Acai Marketing Sites Disguised as 'News'

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The FTC recently filed suit against ten operations with websites that market acai berry weight loss products. The FTC alleged that the companies' websites – which look like news websites – deceived consumers who thought the sites were credible journalistic outlets as opposed to elaborate marketing schemes.

According to the FTC, the sites contained titles such as “News 6 News Alerts,” “Health News Health Alerts,” or “Health 5 Beat Health News” and would include the names and logos of actual major media outlets such as ABC, Fox News, CBS, CNN, *USA Today* and *Consumer Reports*. The sites published news-type headlines, articles with content that appeared to be objective investigative reporting, and supposed independent user comments at the end of the articles.

These websites, however, were made up entirely of marketing content to prompt consumers to click on hyperlinked acai berry weight loss product sites (which is how the website operators made money — when consumers clicked through to linked product sites and made purchases, the marketing site would receive a commission). This nature and purpose of the sites was not made clear to consumers – another failing alleged in the FTC's suits.

The FTC's action should come as no surprise to the defendant companies. Looking at a sample defendant company site (see, for example, [the exhibit provided on the FTC's Bureau of Consumer Protection blog](#)) it seems pretty obvious that the marketing schemes of these companies attempted to entice consumers into believing their website content was objective news reporting. Such schemes seem textbook “deceptive” advertising as outlawed under the Federal Trade Commission Act.

Moreover, the FTC has been making noise over the last couple of years that should have put the companies on notice. Last August, the Commission succeeded in halting a similar deceptive scheme by Central Coast Nutraceuticals, Inc. regarding marketing of the very same product. And back in 2009, the FTC published guidelines on use of Testimonials and Endorsements in advertising, outlining how relationships with producers should be disclosed.

It is possible that the defendant companies knew of, but merely ignored, the fact that their marketing schemes could result in FTC action. They may have opted for temporary profit over long-run regulatory risk. But when the regulatory risk could mean frozen



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assets and disgorgement of profits, marketers should think twice before selling “by any means necessary.”

FTC Beat is authored by the Ifrac 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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