



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C.

Division of Advertising Practices

November

Christopher Smith, Esquire
SNR Denton
K Street, N.W.
Washington, DC

Re: Hyundai Motor America, FTC File No.

Dear Mr. Smith:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your client, Hyundai Motor America ("Hyundai") or others working for or on its behalf, violated Section 5 of the Federal Trade Commission Act, U.S.C. § 5 in connection with a blogging campaign designed to build interest in ads that would premiere during the broadcast of Super Bowl XLV.

Our inquiry focused on whether bloggers who had been given gift certificates as an incentive to include links to Hyundai videos in their postings and/or to comment on these forthcoming Super Bowl ads were told to disclose to their readers that they had received this compensation or indeed were told not to disclose this information. Section 5 requires the disclosure of a material connection between an advertiser and an endorser when such a relationship is not otherwise apparent from the context of the communication that contains the endorsement. An advertiser's provision of a gift to a blogger for posting specific content promoting the advertiser's products or services is likely to constitute a material connection that would not be reasonably expected by readers of the blog.

Upon careful review of this matter, including non-public information submitted to the staff, we have determined not to recommend enforcement action at this time. We considered several factors in reaching this decision. First, it appears that Hyundai did not know in advance about use of these incentives, that a relatively small number of bloggers received the gift certificates, and that some of them did, in fact, disclose this information.

Second, the actions with which we are most concerned here were taken not by Hyundai employees, but by an individual who was working for a media firm hired to conduct the blogging campaign. Although advertisers are legally responsible for the actions of those working directly or indirectly for them, the actions at issue here were contrary both to Hyundai's established social media policy, which calls for bloggers to disclose their receipt of compensation, and to the policies of the media firm in question. Moreover, upon learning of the misconduct, the media firm promptly took action to address it.

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decision not to pursue enforcement action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may warrant.

Very truly yours,



Associate Director