



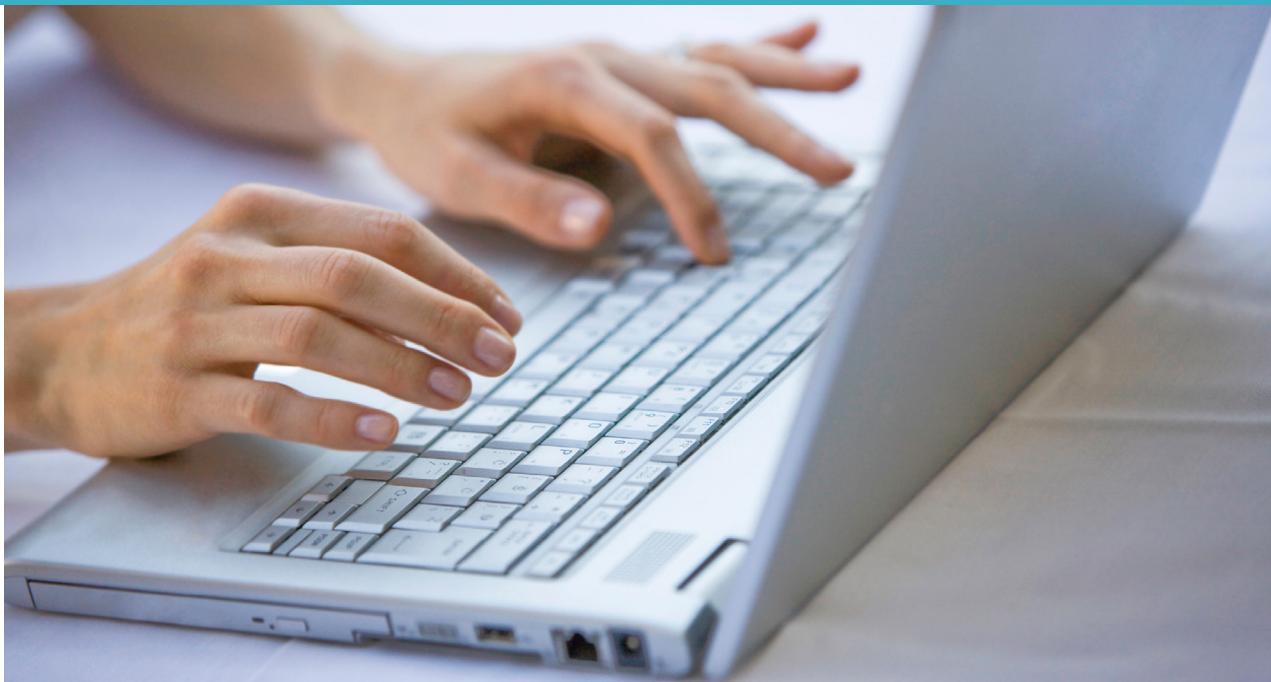
Australian  
Competition &  
Consumer  
Commission

Supplier guide

# WHAT YOU NEED TO KNOW ABOUT:

Online reviews—a guide for  
business and review platforms

November 2013



Australian Competition and Consumer Commission  
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ISBN 978 1 922145 03 1

ACCC 11/13\_824

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# 1. Introduction

Online consumer reviews are increasingly being relied upon by consumers as a low cost means of making more informed purchasing decisions. As long as the integrity of those reviews is ensured, this is a positive development.

Reviews may be written about a business' goods or services or about a business or brand itself. Online reviews are written about online businesses or traditional bricks and mortar businesses. A fake review is one which does not reflect the genuinely held opinion of the author.

The Australian Competition and Consumer Commission (ACCC) is an independent statutory authority responsible for administering the *Competition and Consumer Act 2010* (CCA) incorporating the Australian Consumer Law (ACL). The ACCC takes a range of enforcement action for misleading and anti-competitive conduct. The CCA applies to conduct in Australia as well as conduct outside of Australia by corporations carrying on business in Australia.

This guideline is not a substitute for independent legal advice as it is intended to have general application. You should obtain professional advice if you have any specific questions or concerns.

## Guiding principles

### **Principle 1—Be transparent about commercial relationships**

Commercial relationships between review platforms, reviewed businesses and/or reviewers may lead to an unfair competitive advantage between competing reviewed businesses. It is recommended that industry players be open and transparent to consumers using review platforms about commercial relationships which impact on, or have the potential to impact on, consumer reviews.

### **Principle 2—Do not post or publish misleading reviews**

Reviews may mislead consumers where they are presented as impartial, but were in fact written by:

- the reviewed business
- a business competing with the reviewed business
- a third party on behalf of one of the above (e.g. a marketing or public relations firm)
- third persons paid to write a review when they have not used the product
- someone who has used the good or service but who writes an inflated review because they have been provided with a financial or non-financial benefit of some kind.

### **Principle 3—The omission or editing of reviews may be misleading**

The overall impression created by a body of reviews on a review platform may be misleading if it does not reflect the opinions of the reviewers who have submitted the reviews. The selective removal or editing of reviews, particularly negative reviews, by review platforms for commercial or promotional reasons may be misleading.

## What is a review platform?

Review platforms are sites, sections of sites or software tools (e.g. apps) which publish reviews about a range of goods, services or businesses and whose predominant audience are consumers seeking product or business information to inform a prospective purchase. Review platforms generally publish reviews on their own site. Sometimes review platforms are engaged to collect and publish reviews on another's site.

Blogs or other sites which publish reviews as discussion threads or in another format are also used by consumers to inform purchasing decisions. The guiding principles apply equally in those circumstances.

Consumer review platforms collect reviews by 'everyday' consumers rather than those with specialist knowledge. Expert review platforms collect reviews by experts or staff writers specifically instructed by the platform to provide the review.

## Review platforms and competition

The internet has opened up new possibilities for consumers and businesses. Prior to the internet, independent information about products or services was only available in limited forms. Dedicated expert publications provided information about a small number of expensive items, such as cars and whitegoods. There were also star rating systems for hotels. Beyond this, consumers were forced to rely on advertising and (occasionally) the views of friends or family members who had purchased or used the product. Now with online review platforms, consumers can access a wide range of opinions on brands and products in a cheap and accessible format. When operating properly, the net impact of review platforms will be pro-competitive; they will make consumers better informed and businesses more accountable.

Given that review platforms are a valuable consumer tool, it is important to the ACCC that the consumer benefits they provide are not eroded by unfair practices.

Competition law as provided for in the CCA applies equally to online traders as it does to more conventional 'bricks and mortar' stores. This is particularly relevant for review platforms with a high market share or which occupy a powerful position in relation to reviewed businesses. Because of this power, any steps to constrain competition in the market for reviews or related markets will be of serious concern to the ACCC.

## ACCC action

The ACCC has taken enforcement action in relation to misleading testimonials, and will continue to do so, including:

- In 2011, the ACCC took action against removalist business Citymove for misleading online reviews. Citymove admitted to having made representations on its website [www.movingreview.com.au](http://www.movingreview.com.au) that purported to be testimonials by genuine consumers when they were not. Citymove paid a \$6,600 infringement notice.

Businesses or consumers with relevant information about conduct referred to in these guidelines are encouraged to report it to the ACCC. Those concerned about liability for their own conduct should consult the [ACCC Cooperation Policy for Enforcement Matters](#). Under this Policy, the ACCC may recognise cooperation, for example any steps taken to remove potentially false or misleading reviews, by:

- permitting complete or partial immunity from ACCC action
- making submissions to the Court for a reduction in penalty
- agreeing to an administrative settlement instead of litigation.

## 2. Guidance for review platforms

### Disclosing commercial arrangements with reviewed businesses

Consumers generally expect that review results on apparently independent (consumer or expert) review platforms are not affected by commercial relationships between the review platform and reviewed businesses.

Commercial relationships between review platforms and reviewed businesses are however not uncommon. Businesses may for example pay for advertising on the platform's site or make commission payments to review platforms for purchases made from the platform.

Some review platforms allow paying businesses to select a review to appear at the top of the business' reviews page or prevent negative reviews from being uploaded automatically or both. The ACCC is concerned that commercial relationships sometimes result in reviews with higher ratings or higher average ratings (through the removal or non-placement of negative reviews) than would otherwise occur in the absence of that relationship.

#### Guidance

Platforms which allow commercial relationships with reviewed businesses to impact upon the content or presentation of reviews, in particular the inflation of review results, risk breaching the CCA. In circumstances where a commercial relationship does not affect the review results, it is recommended that there is disclosure of this relationship to consumers using the review platform.

For platforms opting to rely on disclosure, suggestions as to how this disclosure may be made include:

- a prominent explanation of the nature and extent of the commercial relationship and its impact, if any, on the review page of the affected business
- distinguishing review results which are in any way promoted or improved because of a commercial relationship with the platform through shading or other means so that their content is not confused with 'organic' review results.

This standard does not require disclosure where the platform sells advertising to an intermediary who sells it to a reviewed business. Nor does it require disclosure of precise or confidential details. Instead, prominent wording such as the following would suffice:

'[Review platform] receives a commission/fee for each purchase from [reviewed business] booked through this site.'

'[Review platform] sells advertising to [reviewed business].'

In these guidelines, prominent disclosure means disclosure in text at least as prominent as the text of written reviews, which effectively conveys key information to any reasonable site user. Pop up boxes may be used where space is limited. Disclosure in a separate terms and conditions page is not prominent disclosure. The most relied upon review information is the aggregated review, often appearing as a star rating out of five. A prominent disclosure would be proximate to the aggregated review result if one exists.

## Detecting and removing fake consumer reviews

There is a clear business case for platforms to maintain high standards regarding the detection and removal of fake reviews to maintain the integrity of the review platform and to make it useful to the consuming public. Moreover, consumers are under a general impression that reviews appearing on a consumer review platform are genuine consumer reviews.

### Guidance

The ACCC recommends that consumer review platforms remove reviews which they **know** to be fake. Failure to do so may risk breaching the CCA. If the platform has evidence that a reviewed business is responsible for the posting of fake reviews about itself or its competitors, it may choose to monitor future reviews of that business or remove its review page entirely depending on the extent of review manipulation. In these circumstances, review platforms are encouraged to raise their concerns directly with the ACCC.

Many review platforms take steps to detect and remove fake reviews. Whilst it is not always possible to detect every fake review, review platforms should have appropriate processes and procedures in place to detect and remove fake reviews. A best practice approach is to reactively (relying on complaints information) and proactively (using automated or manual internal systems) seek out fake reviews, including after they have been posted.

There is no precise formula for identifying fake reviews. In relation to the detection of suspected fake material, reviews which may warrant attention include those:

- which are part of a significant ‘spike’ in reviews about a particular business over a limited period of time
- written from the same email or IP address as each other or as the business reviewed
- written about the same business, good or service where the accounts of those who wrote reviews demonstrate abnormal similarities, e.g. similar email addresses, user names, passwords or IP addresses
- which use overly positive or ‘marketing-speak’ writing styles
- which do not make sense
- which use the same exact language as other reviews of the same business or product.

Online review platforms should aim to maintain the integrity by ensuring misleading reviews are not published. The amount of effort required to be devoted by review platforms to detection and monitoring will depend on a range of circumstances, including the platform’s systems, size and whether verification of purchase is required to post a review.

Businesses could adopt best practices in detection and monitoring by having easy processes for site users (consumers or businesses) to flag suspect reviews. This may be achieved by including buttons near reviews which provide users with an opportunity to bring reviews to the attention of platforms. For example:

Compliment | Flag as suspect or inappropriate |

## Incentivised consumer reviews

An incentive or reward is sometimes offered by businesses in exchange for a review on a consumer review platform. The ACCC recognises the potential for incentives to cause biased reviews, inflating review results and misleading consumers in some circumstances. For example, this may include entry into a competition to win a smartphone or a discount on a customer's next purchase. On occasion, online review platforms may also offer an incentive to encourage reviews about businesses listed on the platform.

### Guidance

When an online review platform offers an incentive, it should do so in accordance with the three recommendations set out under the guidance for reviewed businesses relating to incentivised reviews. It is recommended that disclosure of any incentive which the platform offers in exchange for a review be placed by the platform prominently on the review page of the business whose reviews are affected by the incentive. For example:

**'Some/all reviewers of [reviewed business] received a voucher [or other benefit] from [review platform] in exchange for their review.'**

Consumer review platforms should be alert to the use of incentives by reviewed businesses to inflate their review results in a way which may be misleading to consumers. Platforms should seek to identify and respond appropriately to incentives offered by businesses likely to lead to misleading reviews.

Where the consumer review platform notices a dramatic and unexpected spike in consumer reviews written about a particular business for example, this may indicate a possibility that misleading reviews have been published in response to an incentive. It is recommended that the platform approaches the reviewed business to confirm whether an incentive has been offered so that the platform can make the appropriate disclosure, or (if the incentive has clearly and dramatically manipulated particular review results) remove the affected reviews.

An additional best practice mechanism which consumer review platforms could implement is to ask reviewers whether they have received a benefit/incentive from the business reviewed at the time that their review is posted.

When making a disclosure, the review platform will not necessarily be in a position to distinguish reviews written in response to an incentive and those which are not. In these circumstances, the following disclosures are recommended as best practice, as applicable:

**'[Reviewed business] has recently offered financial or other rewards to their customers in order to encourage them to write a review. It is possible that reviews were written by customers who received such a reward'; or**

**'[Reviewed business] offered certain rewards to their customers on or about [X date(s)] to encourage them to write a review. It is possible that reviews during the term of that offer were written by customers who received such a reward.'**

Platforms could adopt best practice principles to improve standards and increase consumer trust in the integrity of reviews by making prominent disclosure of the incentive on the business' page and next to the business' aggregated rating, rather than next to every review possibly affected.

It is recommended that prominent disclosure of incentives offered by platforms or reviewed businesses remain while the platform believes that consumer reviews written in response to an incentive continue to impact upon the business' aggregated rating.

Reviews written in response to an invitation from a platform or a business (e.g. an email to a consumer requesting that the consumer write a review) where there is no accompanying incentive, need not be accompanied by a disclosure.

## The omission of credible consumer reviews, inflated (average) reviews and the ‘big picture’

There appears to be a trend towards high average reviews on some consumer review platforms. The overall picture, including the average rating of a business on a consumer review platform, is important.

In many cases, users do not read more than a small number of reviews before relying on consumer review results. In some cases, the most influential aspect of review information presented by a consumer review platform is the aggregated or average rating (e.g. a star rating) about a business, service or product. When keyword searching on an app or search engine, the aggregated rating is often the only content immediately visible to the user.

### Guidance

The removal of review content is a regular feature of consumer review platforms and is warranted where it prevents fake, offensive, defamatory or irrelevant reviews from being published. Deleting or hiding reviews suspected of being fake or reviews which are offensive, defamatory or irrelevant is not misleading as consumer review platform users anticipate limited removals to improve the quality of reviews.

Online review platforms should ensure that the overall impression created by a body of reviews on a review platform is not misleading. Platforms which selectively remove or edit negative reviews because of a commercial relationship with a reviewed business risk creating an overall picture of consumer opinion which is misleading.

The number of reviews which form the basis of an aggregated (e.g. star) rating may be relevant to the weight which a site user gives to that aggregated rating. If an aggregated rating system is provided, it is recommended that consumer review platforms disclose the total number of reviews that the rating is based on next to the aggregated rating (e.g. 3 stars, 24 reviews).

Content moderation policies of review platforms ensure users and businesses have a clear understanding of when and why online consumer reviews will be removed. It is recommended that consumer review platforms make their policy for publishing and removing consumer content accessible to platform users.

## Dealing with businesses who have received unfavourable reviews on your platform

Reviewed businesses are understandably concerned about the reputational consequences of negative reviews which they receive on consumer review platforms and expert review platforms.

### Guidance

As consumers reading online reviews can be presumed to understand that opinions will vary about the same or similar experiences, the publication of reviews vastly better or worse than the average review about a product or service will not necessarily be misleading.

It is recommended that reviewed businesses be provided with an opportunity to post a public response to negative reviews.

Where a reviewed business has a well substantiated reason to believe that a review is fake, the review platform should, following investigation, remove the review as soon as possible. While it is clearly inappropriate for review platforms to remove negative reviews simply because a reviewed business makes a complaint, review platforms should be responsive to business concerns and react swiftly if evidence suggests that a review does not reflect a genuinely held opinion.

## Threats of legal action against review platforms

It is not uncommon for reviewed businesses to threaten review platforms with legal action on the basis that the business has been defamed by negative reviews on the platform.

### Guidance

Under Australian law, corporations can only be defamed in limited circumstances. It is recommended that review platforms familiarise themselves with applicable defamation laws.

### 3. Guidance for reviewed businesses

#### **‘Consumer reviews’ written by businesses or on behalf of businesses**

The writing of reviews by a business about itself as though it were a consumer is misleading; as is writing negative reviews about a competitor when the author has not experienced the product or service.

Engaging an individual, a search engine optimisation firm or other public relations firm to deliver reviews by persons who are purporting to be, but who are not in fact, genuine consumers is misleading.

#### **Guidance**

You should not write reviews when you have not experienced the good or service reviewed or reviews which do not reflect a genuinely held opinion. You should not solicit others to write reviews about your business or a competitor’s business if they have not experienced the good or service. The ACCC considers such conduct to be misleading.

You should not encourage family and friends to write reviews about your business without disclosing their personal connection with your business in that review. For example:

You own a business and place an advertisement on a freelance labour website requesting ‘100 reviews on my product’ for \$100. This could induce misleading reviews.

In order to avoid any liability associated with this offer, you should make it clear to writers—in the advertisement and in any direct communications—that reviews must only be written by those who have experienced the product, must reflect genuinely held opinions and may be positive or negative.

You should ask relevant platform(s) to place a prominent disclosure next to affected reviews indicating that reviews have been purchased. While these measures will assist you to avoid liability, best practice would be not purchasing reviews at all.

Freelance labour websites should monitor posts to ensure that fake reviews are not facilitated. Freelance labour sites are encouraged to refer information about fake reviews bought or sold to the ACCC for further investigation.

## Incentivised consumer reviews

As noted above, some businesses offer incentives to customers to encourage them to write consumer reviews about that business on review platforms.

### Guidance

Incentives should only be offered in exchange for reviews of your business (its products or services) if:

- incentives are offered equally to consumers likely to be complimentary and consumers likely to be critical, and positive and negative reviews are treated the same
- the reviewer is expressly told that the incentive is available whether the review is positive or negative
- the incentive is prominently disclosed to users who rely on affected reviews.

An example of an incentive offer which is not best practice is:

#### **'5 stars' 'Excellent service' 'Great product'**

Write a review and tell us why you loved your product and our service! Your review will go into the draw to win an XYZ Tablet!

To enter, simply post your review and email a copy of it to us so we can approve your entry

An example of an appropriate incentive offer is:

#### **Review your product**

Now that you've had time to familiarise yourself with your device we'd like to hear your feedback. Your review will help other customers like yourself shop online

As a thank you for taking the time to post a review you will get 10% off your next purchase. We encourage you to write a review that reflects your genuine experiences of the product, be they positive or negative

If you are offering incentives for reviews of your business' goods or services on a particular review platform, it is recommended that you notify the review platform of this, including details of your offer, so that the appropriate disclosure can be made by the platform.

## Fake negative reviews about your business

Negative consumer reviews posted on a review platform which do not reflect a reviewer's genuinely held opinion and are motivated by a personal dislike of a business or its staff can cause substantial harm.

Businesses affected by fake negative reviews have the right to complain to the platform which publishes the review and to relevant regulatory authorities.

### Guidance

The use of platforms as a forum for personal reprisals against staff or business owners is inappropriate. Businesses affected by personal vendettas should notify the review platform immediately, identifying affected reviews, and providing reasons.

In extreme circumstances, businesses which are the victims of ongoing harassment or serious threats through fake negative reviews may also consider contacting Police. Affected businesses should also notify the review platform immediately, providing them with reasons and any evidence of relevant fake reviews.