



Key Update:

- The Federal Trade Commission (FTC) [issued](#) warning letters to the American Beverage Association (AmeriBev), The Canadian Sugar Institute, and 12 health influencers, citing concerns over inadequate disclosures in Instagram and TikTok posts promoting aspartame or sugar-containing products.
- The FTC claimed the trade associations might not have adequately disclosed influencer relationships, emphasizing the necessity for disclosures in both audio and text if a representation is conveyed through both audible and visual means.
- The FTC also discouraged reliance on built-in platform disclosure features, noting that such features do not guarantee an effective method for influencers to disclose material connections.

The warning letters sent by the FTC urge the health and diet influencers to review their Instagram, TikTok, and other social media posts to ensure that any material connections are clearly and conspicuously disclosed. The FTC alleged that none of the influencer posts contained video disclosures, and some influencers did not disclose their material connection to the trade associations.

The FTC emphasized the importance of clear consumer disclosures, stating that disclosures should be *both* audible in the video *and* visible in the text description for both TikTok videos and Instagram reels. The FTC claimed that in-text disclosures, such as hashtags labeling a post with "#sponsored" or "#ad," were buried in the post description; thus, they were difficult for the average user to understand because longer descriptions must be clicked to view the full post.

Some influencers used Instagram's "Paid partnership" tool. But the FTC stated that relying solely on platform-provided disclosure tools is not recommended, as "Paid partnership" conceals an important detail—the identity of the paying partner—and raises concerns that viewers may be unable to properly assess the endorsement's significance and credibility.

The FTC's warning letters put the recipients on notice that they could be subject to civil penalties of up to \$50,120 per violation, a court injunction, or an administrative cease and desist order. This enforcement aligns with the FTC's recent revisions to the Guides Concerning Use of Endorsements and Testimonials in Advertising. See our recent [Update](#) for additional information on the FTC's updated guidance for influencer and consumer review programs.

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