.com Disclosures

How to Make Effective Disclosures in Digital Advertising

Federal Trade Commission | March 2013

çem披露

如何在数字广告中做出有效披露

al

联邦贸易委员会 | 2013年3月

本译本由机器翻译生成，供快速理解条文与内部培训使用；
涉及合规判断或法律适用时，请咨询专业顾问，并以官方英文文本为准。
翻译您自己的文件，请选择桐鸾译馆 · https://www.ivyivy.com.cn
扫码关注服务号

Contents

Overview i

Introduction 1

The Applicability of FTC Law to Online Advertising 2

Clear and Conspicuous Disclosures in Online Advertisements 4

Background on Disclosures 5

The Clear and Conspicuous Requirement 6

What Are Clear and Conspicuous Disclosures? 7

Proximity and Placement 8

Prominence 17

Distracting Factors in Ads 19

Repetition 19

Multimedia Messages and Campaigns 20

Understandable Language 21

Conclusion 21

Appendix: Examples A-1

目录

概述 i

引言 1

FTC法律对在线广告的适用性 2

清晰且醒目的披露在在线广告中 4

披露的背景情况 5

清晰显著要求 6

什么是清晰且醒目的披露? 7

邻近性与放置 8

显著性 17

广告中的干扰因素 19

重复 19

多媒体消息与活动 20

通俗易懂的语言 21

结论 21

附录：示例 A-1

Overview

In the online marketplace, consumers can transact business without the constraints of time or distance. One can log on to the Internet day or night and purchase almost anything one desires, and advances in mobile technology allow advertisers to reach consumers nearly anywhere they go. But cyberspace is not without boundaries, and deception is unlawful no matter what the medium. The FTC has enforced and will continue enforcing its consumer protection laws to ensure that products and services are described truthfully online, and that consumers understand what they are paying for. These activities benefit consumers as well as sellers, who expect and deserve the opportunity to compete in a marketplace free of deception and unfair practices.

The general principles of advertising law apply online, but new issues arise almost as fast as technology develops — most recently, new issues have arisen concerning space-constrained screens and social media platforms. This FTC staff guidance document describes the information businesses should consider as they develop ads for online media to ensure that they comply with the law. Briefly,

1. The same consumer protection laws that apply to commercial activities in other media apply online, including activities in the mobile marketplace. The FTC Act's prohibition on "unfair or deceptive acts or practices" encompasses online advertising, marketing, and sales. In addition, many Commission rules and guides are not limited to any particular medium used to disseminate claims or advertising, and therefore, apply to the wide spectrum of online activities.
2. When practical, advertisers should incorporate relevant limitations and qualifying information into the underlying claim, rather than having a separate disclosure qualifying the claim.
3. Required disclosures must be clear and conspicuous. In evaluating whether a disclosure is likely to be clear and conspicuous, advertisers should consider its placement in the ad and its proximity to the relevant claim. The closer the disclosure is to the claim to which it relates, the better. Additional considerations include: the prominence of the disclosure; whether it is unavoidable; whether other parts of the ad distract attention from the disclosure; whether the disclosure needs to be repeated at different places on a website; whether disclosures in audio messages are presented in an adequate volume and cadence; whether visual disclosures

概述

在在线市场中，消费者可以在不受以下限制的情况下进行交易

时间或距离。人们可以日夜登录互联网，购买几乎任何想要的东西，而移动技术的进步使广告商几乎可以在消费者所到之处触达他们。但网络空间并非没有边界，无论何种媒介，欺骗都是违法的。FTC已执行并将继续执行其消费者保护法，以确保产品和服务在网上被如实描述，并确保消费者了解他们为何付费。这些活动既有利于消费者，也有利于卖家，他们期望并理应有机会在一个没有欺骗和不公平行为的市场中竞争。

广告法的一般原则适用于网络，但新问题几乎

适用于其他媒体商业活动的相同消费者保护法律也适用于在线活动，包括移动市场中的活动。FTC法案对"不公平或欺骗性行为或做法"的禁止涵盖在线广告、营销和销售。此外，许多委员会的规则和指南并不限于传播声明或广告所使用的任何特定媒介，因此适用于广泛的在线活动。

1. 适用于其他媒体商业活动的相同消费者保护法律同样适用于在线活动，包括移动市场中的活动。《联邦贸易委员会法》对"不公平或欺骗性行为或做法"的禁止涵盖在线广告、营销和销售。此外，委员会的许多规则和指南并不限于传播声明或广告所使用的任何特定媒介，因此适用于广泛的在线活动。
2. 当实际可行时，广告主应将相关限制和限定信息纳入基础声明中，而不是用单独的披露来限定该声明。
3. 要求的披露必须清晰且醒目。在评估披露是否可能清晰且醒目时，广告商应考虑其在广告中的位置及其与相关声明的接近程度。披露越接近其所关联的声明越好。其他考虑因素包括：披露的显著性；是否不可避免；广告的其他部分是否分散了对披露的注意力；披露是否需要在网站的不同位置重复；音频信息中的披露是否以足够的音量和节奏呈现；视觉披露是否

appear for a sufficient duration; and whether the language of the disclosure is understandable to the intended audience.

4. To make a disclosure clear and conspicuous, advertisers should:
   - Place the disclosure as close as possible to the triggering claim.
   - Take account of the various devices and platforms consumers may use to view advertising and any corresponding disclosure. If an ad is viewable on a particular device or platform, any necessary disclosures should be sufficient to prevent the ad from being misleading when viewed on that device or platform.
   - When a space-constrained ad requires a disclosure, incorporate the disclosure into the ad whenever possible. However, when it is not possible to make a disclosure in a space-constrained ad, it may, under some circumstances, be acceptable to make the disclosure clearly and conspicuously on the page to which the ad links.
   - When using a hyperlink to lead to a disclosure,
     - make the link obvious;
     - label the hyperlink appropriately to convey the importance, nature, and relevance of the information it leads to;
     - use hyperlink styles consistently, so consumers know when a link is available;
     - place the hyperlink as close as possible to the relevant information it qualifies and make it noticeable;
     - take consumers directly to the disclosure on the click-through page;
     - assess the effectiveness of the hyperlink by monitoring click-through rates and other information about consumer use and make changes accordingly.
   - Preferably, design advertisements so that “scrolling” is not necessary in order to find a disclosure. When scrolling is necessary, use text or visual cues to encourage consumers to scroll to view the disclosure.
   - Keep abreast of empirical research about where consumers do and do not look on a screen.
   - Recognize and respond to any technological limitations or unique characteristics of a communication method when making disclosures.
   - Display disclosures before consumers make a decision to buy — *e.g.*, before they “add to shopping cart.” Also recognize that disclosures may have to be

出现足够长的时间；以及披露的语言是否为预期受众所理解。

4. 为使披露清晰显著，广告主应：
   - ●将披露尽可能放置在触发性陈述附近。
   - ●考虑消费者可能用于查看的各种设备和平台

     广告及任何相应的披露。如果广告可在特定设备或平台上查看，任何必要的披露应足以防止该广告在该设备或平台上查看时具有误导性。
   - ●当空间受限的广告需要披露时，将披露纳入其中

     纳入广告中。然而，当无法在空间受限的广告中做出披露时，在某些情况下，在广告所链接的页面上以清晰且醒目的方式做出披露可能是可以接受的。
   - ●当使用超链接引导至披露信息时，
     - 使链接明显；
     - 适当地标注超链接，以传达其所指向信息的重要性、性质和相关性；一致地使用超链接样式，以便消费者知道何时有可用链接；
     - 将超链接放置在尽可能靠近其所限定的相关信息的位置，并使其引人注意；
     - 将消费者直接带到点击通过页面上的披露；通过监测点击率和其他关于消费者使用的信息来评估超链接的有效性，并据此做出更改。
   - ●最好将广告设计为无需“滚动”即可

     找到披露。当需要滚动时，使用文字或视觉提示鼓励消费者滚动以查看披露。
   - ●随时了解关于消费者在哪里看和不看

     在屏幕上。
   - ●识别并回应任何技术限制或独特特征

     披露时采用某种通信方法。
   - ●在消费者做出购买决定之前展示披露 - *e.g.*，在之前

     他们“加入购物车”。同时认识到披露可能必须

repeated before purchase to ensure that they are adequately presented to consumers.

- Repeat disclosures, as needed, on lengthy websites and in connection with repeated claims. Disclosures may also have to be repeated if consumers have multiple routes through a website.
- If a product or service promoted online is intended to be (or can be) purchased from “brick and mortar” stores or from online retailers other than the advertiser itself, then any disclosure necessary to prevent deception or unfair injury should be presented in the ad itself — that is, before consumers head to a store or some other online retailer.
- Necessary disclosures should not be relegated to “terms of use” and similar contractual agreements.
- Prominently display disclosures so they are noticeable to consumers, and evaluate the size, color, and graphic treatment of the disclosure in relation to other parts of the webpage.
- Review the entire ad to assess whether the disclosure is effective in light of other elements — text, graphics, hyperlinks, or sound — that might distract consumers’ attention from the disclosure.
  - Use audio disclosures when making audio claims, and present them in a volume and cadence so that consumers can hear and understand them.
  - Display visual disclosures for a duration sufficient for consumers to notice, read, and understand them.
  - Use plain language and syntax so that consumers understand the disclosures.

5. If a disclosure is necessary to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, and it is not possible to make the disclosure clearly and conspicuously, then that ad should not be disseminated. This means that if a particular platform does not provide an opportunity to make clear and conspicuous disclosures, then that platform should not be used to disseminate advertisements that require disclosures.

Negative consumer experiences can result in lost consumer goodwill and erode consumer confidence. Clear, conspicuous, and meaningful disclosures benefit advertisers and consumers.

在购买前重复，以确保它们充分呈现给消费者。

- 在内容冗长的网站上以及涉及以下情形时，根据需要重复披露
  重复性声明。如果消费者可以通过多条路径浏览网站，披露也可能需要重复。
- 如果在网上推广的产品或服务打算(或能够)从“实体”商店或广告主本身以外的在线零售商处购买
  那么为防止欺骗或不公平损害所必需的任何披露都应在广告本身中呈现--也就是说，在消费者前往商店或其他在线零售商之前。
- 必要的披露不应被降格到“使用条款”及类似内容中
  合同协议。
- 醒目地展示披露内容，使其对消费者显而易见，并
  评估披露内容相对于网页其他部分的大小、颜色和图形处理方式。
- 审查整个广告，以评估披露内容在考虑以下因素时是否有效
  其他元素--文字、图形、超链接或声音--这些元素可能分散消费者对披露内容的注意力。
  - 在作出音频声明时使用音频披露，并以足够的音量呈现
    以及节奏，使消费者能够听到并理解它们。
  - 展示视觉披露内容的持续时间应足以让消费者注意到、阅读，
    并理解它们。
  - 使用通俗的语言和句法，使消费者理解披露内容。

5. 如果披露对于防止广告具有欺骗性、不公平性或 otherwise 违反委员会规则是必要的，且无法清晰且醒目地进行披露，则不应传播该广告。这意味着，如果特定平台没有提供进行清晰且醒目披露的机会，则不应使用该平台传播需要披露的广告。

负面消费者体验可能导致消费者好感度流失，并削弱
消费者信心。清晰、醒目且有意义的披露有利于广告主和消费者。

I. Introduction

Day in and day out, businesses advertise and sell their products and services online.[1] The online universe presents a rewarding and fast-paced experience for consumers, but also raises interesting — and occasionally complex — questions about the applicability of laws that were developed long before "dot com," "smartphone," and "social media" became household terms.

In May 2000, following a public comment period and a public workshop held to discuss the applicability of FTC rules and guides to online activities, FTC staff issued Dot Com Disclosures. That guidance document examined how the Commission's consumer protection statutes, rules, and guides apply to online advertising and sales and discussed FTC requirements that disclosures be presented clearly and conspicuously, in the context of online advertising.

In May 2011, FTC staff began seeking input to modify and update the guidance document to reflect the dramatic changes in the online world in the preceding eleven years. After three public comment periods and a public workshop, this revised staff guidance document was issued in March 2013.[2]

This document provides FTC staff guidance concerning the making of clear and conspicuous online disclosures that are necessary pursuant to the laws the FTC enforces. It does not, however, purport to cover every issue associated with online advertising disclosures, nor is it intended to provide a safe harbor from potential liability. It is intended only to provide guidance concerning practices that may increase the likelihood that a disclosure is clear and conspicuous. Whether a particular ad is deceptive, unfair, or otherwise violative of a Commission rule will depend on the specific facts at hand. The ultimate test is not the size of the font or the location of the disclosure, although they are important considerations; the ultimate test is whether the information intended to be disclosed is actually conveyed to consumers.

1. In this document, the term "online" includes advertising and marketing via the Internet and other electronic networks. It is device neutral and encompasses advertising and marketing on mobile devices, such as smartphones and tablets.
2. This staff guidance document only addresses disclosures required pursuant to laws that the FTC enforces. It does not address disclosures that may be required pursuant to local, state (*e.g.*, many sweepstake requirements), or other federal laws or regulations (*e.g.*, regulations issued by the Consumer Financial Protection Bureau or the Food and Drug Administration).

I. 引言日复一日，企业在网上宣传和销售其产品和服务。[1]

在线世界为消费者提供了有益且快节奏的体验，但也提出了有趣--有时复杂--的问题，即那些早在"dot com"、"smartphone"和"social media"成为家喻户晓的词汇之前制定的法律是否适用。

2000年5月，在公众评议期和公开研讨会之后--该研讨会旨在讨论联邦贸易委员会规则和指南对在线活动的适用性，联邦贸易委员会工作人员发布了《点com披露》。该指导文件审查了委员会的消费者保护法规、规则和指南如何适用于在线广告和销售，并讨论了联邦贸易委员会在在线广告背景下对披露应清晰且醒目呈现的要求。

2011年5月，FTC工作人员开始征求修改和更新该指南的意见以反映过去十一年在线世界的巨大变化。在三个公开评论期和一次公开研讨会之后，本修订版工作人员指南文件于2013年3月发布。[2]

本文件提供联邦贸易委员会工作人员关于制作清晰且根据FTC所执行的法律所必需的醒目的在线披露。然而，它并不意图涵盖与在线广告披露相关的所有问题，也不意图提供潜在责任的安全港。它仅意图就可能增加披露清晰且醒目可能性的做法提供指导。特定广告是否具有欺骗性、不公平或 otherwise 违反委员会规则将取决于具体事实。最终检验标准不是字体大小或披露位置，尽管它们是重要考虑因素；最终检验标准是意图披露的信息是否实际传达给消费者。

1. 在本文件中，"在线"一词包括通过互联网和其他电子网络进行的广告和营销。它不区分设备，涵盖移动设备(如智能手机和平板电脑)上的广告和营销。
2. 本工作人员指南文件仅涉及依据FTC所执行法律而要求的披露。它不涉及可能依据地方、州(*e.g.*，许多抽奖要求)或其他联邦法律或法规(*e.g.*，消费者金融保护局或食品药品监督管理局发布的法规)而要求的披露。

There is no litmus test for determining whether a disclosure is clear and conspicuous, and in some instances, there may be more than one method that seems reasonable. In such cases, the best practice would be to select the method more likely to effectively communicate the information in question.

II. The Applicability of FTC Law to Online Advertising

The FTC Act's prohibition on "unfair or deceptive acts or practices" broadly covers advertising claims, marketing and promotional activities, and sales practices in general.[3] The Act is not limited to any particular medium. Accordingly, the Commission's role in protecting consumers from unfair or deceptive acts or practices encompasses advertising, marketing, and sales online, as well as the same activities in print, television, telephone, and radio. The Commission has brought countless law enforcement actions to stop fraud and deception online and works to educate businesses about their legal obligations and consumers about their rights.

For certain industries or subject areas, the Commission issues rules and guides. Rules prohibit specific acts or practices that the Commission has found to be unfair or deceptive.[4] Guides help businesses in their efforts to comply with the law by providing examples or direction on how to avoid unfair or deceptive acts or practices.[5] Many rules and guides address claims about products or services or advertising in general and apply to online

3. The Commission's authority covers virtually every sector of the economy, except for certain excluded industries, such as common carrier activities and the business of insurance, airlines, and banks.
4. The Commission issues rules pursuant to Section 5 of the FTC Act when it has reason to believe that certain unfair or deceptive acts or practices are prevalent in an industry. 15 U.S.C. § 57a(a)(1)(B). In addition, the Commission promulgates rules pursuant to specific statutes, which are designed to further particular policy goals.
5. Guides are "administrative interpretations of laws administered by the Commission." 16 C.F.R. § 1.5. Although guides do not have the force and effect of law, if a person or company fails to comply with a guide, the Commission might bring an enforcement action alleging an unfair or deceptive practice in violation of the FTC Act.

没有判断披露是否清晰且醒目的试金石，

在某些情况下，可能有不止一种看似合理的方法。在此类情况下，最佳做法是选择更有可能有效传达所涉信息的方法。

II. FTC法律对在线广告的适用性 FTC Act 对"不公平或欺骗性行为或做法"的禁止广泛涵盖

广告声明、营销和促销活动以及一般销售行为。[3]该法不限于任何特定媒介。因此，委员会在保护消费者免受不公平或欺骗性行为或做法方面的作用涵盖在线广告、营销和销售，以及印刷、电视、电话和广播中的相同活动。委员会已提起无数执法行动以制止在线欺诈和欺骗，并致力于教育企业了解其法律义务，教育消费者了解其权利。

对于某些行业或主题领域，委员会发布规则和指南。规则

禁止委员会认定属于不公平或欺骗性的特定行为或做法。[4]指南通过提供示例或关于如何避免不公平或欺骗性行为或做法的指导，帮助企业在努力遵守法律方面提供帮助。[5]许多规则和指南涉及关于产品或服务或一般广告的声明，并适用于在线

3. 委员会的权力几乎涵盖经济的每一个部门，但某些被排除的行业除外，例如公共承运人活动以及保险、航空公司和银行业务。
4. 当委员会有理由相信某些不公平或欺骗性行为或做法在某一行业中普遍存在时，会依据《FTC法》第5条发布规则。15 U.S.C.57a(a)(1)(B)。此外，委员会依据特定法规制定规则，这些法规旨在推进特定政策目标。
5. 指南是"委员会所执行法律的行政解释"。16 C.F.R.1.5。尽管指南不具有法律效力，但如果个人或公司未能遵守指南，委员会可能提起执法行动，指控其违反《FTC法》的不公平或欺骗性做法。

advertising, as well as to other media.[6] Therefore, the plain language of many rules and guides applies to claims made online.[7] For example, the Mail or Telephone Order Merchandise

6. The following rules and guides are included in this category: Guides for the Nursery Industry (16 C.F.R. Part 18); Guides for the Rebuilt, Reconditioned and Other Used Automobile Parts Industry (16 C.F.R. Part 20); Guides for the Jewelry, Precious Metals, and Pewter Industries (16 C.F.R. Part 23); Guides for Select Leather and Imitation Leather Products (16 C.F.R. Part 24); Guides Against Deceptive Pricing (16 C.F.R. Part 233); Guides Against Bait Advertising (16 C.F.R. Part 238); Guides for the Advertising of Warranties and Guarantees (16 C.F.R. Part 239); Guide Concerning Use of the Word "Free" and Similar Representations (16 C.F.R. Part 251); Guides for Private Vocational and Distance Education Schools (16 C.F.R. Part 254); Guides Concerning Use of Endorsements and Testimonials in Advertising (16 C.F.R. Part 255); Guides Concerning Fuel Economy Advertising for New Automobiles (16 C.F.R. Part 259); Guides for the Use of Environmental Marketing Claims (16 C.F.R. Part 260); Rules and Regulations Under the Wool Products Labeling Act of 1939 (16 C.F.R. Part 300); Rules and Regulations Under Fur Products Labeling Act (16 C.F.R. Part 301); Rules and Regulations Under the Textile Fiber Products Identification Act (16 C.F.R. Part 303); Energy and Water Use Labeling for Consumer Products under the Energy Policy and Conservation Act ("Energy Labeling Rule") (16 C.F.R. Part 305); Contacts Lens Rule (16 C.F.R. Part 315); Prohibition of Energy Market Manipulation Rule (16 C.F.R. Part 317); Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets (16 C.F.R. Part 410); Retail Food Store Advertising and Marketing Practices (16 C.F.R. Part 424); Use of Prenotification Negative Option Plans (16 C.F.R. Part 425); Power Output Claims for Amplifiers Utilized in Home Entertainment Products (16 C.F.R. Part 432); Preservation of Consumers' Claims and Defenses (16 C.F.R. Part 433); Mail or Telephone Order Merchandise (16 C.F.R. Part 435); Disclosure Requirements and Prohibitions Concerning Franchising (16 C.F.R. Part 436); Business Opportunity Rule (16 C.F.R. Part 437); Credit Practices (16 C.F.R. Part 444); Used Motor Vehicle Trade Regulation Rule (16 C.F.R. Part 455); Labeling and Advertising of Home Insulation (16 C.F.R. Part 460); Interpretations of Magnuson-Moss Warranty Act (16 C.F.R. Part 700); Disclosure of Written Consumer Product Warranty Terms and Conditions (16 C.F.R. Part 701); Pre-Sale Availability of Written Warranty Terms (16 C.F.R. Part 702); Informal Dispute Settlement Procedures (16 C.F.R. Part 703).

7. A rule or guide applies to online activities if its scope is not limited by how claims are communicated to consumers, how advertising is disseminated, or where commercial activities occur. The Commission has a program in place to systematically review its rules and guides to evaluate their continued need and to make any necessary changes. As needed, the Commission has and will continue to amend or clarify the scope of any particular rule or guide in more detail during its regularly scheduled review. For example, the Energy Labeling Rule was updated to clarify that "catalog" includes "material disseminated over the Internet" and to allow certain disclosures to be made available using the Internet. *See* 72 Fed. Reg. 49,948, 49,957, 49,961 (Aug. 29, 2007).

   The first Dot Com Disclosures guidance document contained a section discussing how certain FTC rules and guides apply to online activities. Since that time, the Commission has addressed many of these issues in rulemakings or its periodic rule and guide reviews, and the information is widely understood given the ubiquitous nature and use of online technology. Nevertheless, the principles articulated in the original Dot Com Disclosures remain the same. For the most part, rules and guides that use terms such as "written," "writing," and "printed" apply online, and email may be used to comply with certain requirements to provide or send required notices or documents to consumers as long as consumers understand or expect to receive such information by email. For example, warranties communicated through visual text online are no different than paper versions and the same rules apply. The requirement to make warranties available at the point of purchase can be accomplished easily online by, for example, using a clearly-labeled hyperlink, in close proximity to the description of the warrantied product, such as "get warranty information here" to lead to the full text of the warranty, and presenting the warranty in a way that it can be preserved either by downloading or printing so consumers can refer to it after purchase. Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 C.F.R. § 701.3 and Pre-Sale Availability of Written Warranty Terms, 16 C.F.R. § 702.3. Another example involves the Telemarketing Sales Rule. Advertisers who send email and text messages that invite consumers to telephone the sender in order to make a purchase are subject to the Telemarketing Sales Rule, unless they qualify for the direct mail exemption under 16 C.F.R. 310.6(b)(6) by clearly and conspicuously making certain specified disclosures in the original solicitation.

广告以及其他媒体。[6]因此，许多规则和指南的平实语言适用于在线作出的声明。[7]例如，《邮购或电话订购商品

6. 以下规则和指南属于本类别：《苗圃行业指南》（16 C.F.R. 第18部分）；《翻新、修复及其他二手汽车零部件行业指南》（16 C.F.R. 第20部分）；《珠宝、贵金属和锡器行业指南》（16 C.F.R. 第23部分）；《精选皮革和人造皮革产品指南》（16 C.F.R. 第24部分）；《禁止欺骗性定价指南》（16 C.F.R. 第233部分）；《禁止诱饵广告指南》（16 C.F.R. 第238部分）；《保证和担保广告指南》（16 C.F.R. 第239部分）；《关于使用"免费"一词及类似表述的指南》（16 C.F.R. 第251部分）；《私立职业和远程教育学校指南》（16 C.F.R. 第254部分）；《关于在广告中使用背书和推荐语的指南》（16 C.F.R. 第255部分）；《关于新汽车燃油经济性广告的指南》（16 C.F.R. 第259部分）；《环境营销声明使用指南》（16 C.F.R. 第260部分）；《1939年羊毛产品标签法下的规则和条例》（16 C.F.R. 第300部分）；《毛皮产品标签法下的规则和条例》（16 C.F.R. 第301部分）；《纺织纤维产品标识法下的规则和条例》（16 C.F.R. 第303部分）；《能源政策与保护法下消费品的能源和水使用标签（"能源标签规则"）》（16 C.F.R. 第305部分）；《隐形眼镜规则》（16 C.F.R. 第315部分）；《禁止能源市场操纵规则》（16 C.F.R. 第317部分）；《关于电视机所显示可观看图像尺寸的欺骗性广告》（16 C.F.R. 第410部分）；《零售食品店广告和营销行为》（16 C.F.R. 第424部分）；《预先通知否定选择计划的使用》（16 C.F.R. 第425部分）；《家庭娱乐产品中使用的放大器功率输出声明》（16 C.F.R. 第432部分）；《消费者索赔和抗辩的保留》（16 C.F.R. 第433部分）；《邮购或电话订购商品》（16 C.F.R. 第435部分）；《关于特许经营的披露要求和禁止事项》（16 C.F.R. 第436部分）；《商业机会规则》（16 C.F.R. 第437部分）；《信贷行为》（16 C.F.R. 第444部分）；《二手机动车贸易监管规则》（16 C.F.R. 第455部分）；家庭隔热的标签和广告(16 C.F.R.第460部分)；《Magnuson-Moss保修法》的解释(16 C.F.R.第700部分)；书面消费品保修条款和条件的披露(16 C.F.R.第701部分)；书面保修条款的售前可获得性(16 C.F.R.第702部分)；非正式争议解决程序(16 C.F.R.第703部分)。

7. 如果某规则或指南的适用范围不受消费者如何获知相关声明、广告如何传播或商业活动发生地的限制，则该规则或指南适用于在线活动。委员会已设立一项计划，系统审查其规则和指南，以评估其持续必要性并作出任何必要的修改。根据需要，委员会已经并将继续在定期审查期间更详细地修订或澄清任何特定规则或指南的适用范围。例如，《能源标签规则》经过更新，澄清"目录"包括"通过互联网传播的材料"，并允许通过互联网提供某些披露。见 72 Fed.Reg.49,948, 49,957, 49,961(2007年8月29日)。

   第一份《Dot Com Disclosures》指导文件包含一节讨论某些FTC规则和指南如何适用于在线活动。自那时以来，委员会已在规则制定或其定期规则和指南审查中处理了许多此类问题，鉴于在线技术的普遍性和使用，这些信息已被广泛理解。尽管如此，原始《Dot Com Disclosures》中阐述的原则仍然相同。在大多数情况下，使用"书面"、"书写"和"印刷"等术语的规则和指南适用于在线环境，电子邮件可用于遵守向消费者提供或发送所需通知或文件的某些要求，只要消费者理解或期望通过电子邮件接收此类信息。例如，通过在线视觉文本传达的保证与纸质版本无异，适用相同的规则。在购买点提供保证的要求可以很容易地在线完成，例如，在受保证产品描述附近使用清晰标记的超链接，如"在此获取保证信息"以链接到保证全文，并以可下载或打印保存的方式呈现保证，以便消费者在购买后可以查阅。书面消费品保证条款和条件的披露，16 C.F.R.702.3。另一个例子涉及《电话营销销售规则》。发送电子邮件和短信邀请消费者致电发送者以进行购买的广告商受《电话营销销售规则》约束，除非他们通过在原始招揽中清晰显著地作出某些指定披露而符合16 C.F.R.310.6(b)(6)下的直邮豁免资格。

rule, which addresses the sale of merchandise that is ordered by mail, telephone, facsimile or computer, applies to those sales regardless of "the method used to solicit the order."[8] Solicitations made in print, on the telephone, radio, TV, or online naturally fall within the rule's scope. In addition, the Guides Concerning the Use of Endorsements and Testimonials in Advertising ("Endorsement Guides") apply to "any advertising message . . . that consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser . . . ."[9] The Guides refer to advertising without limiting the media in which it is disseminated and, therefore, encompass online ads.[10]

III. Clear and Conspicuous Disclosures in Online Advertisements

When it comes to online ads, the basic principles of advertising law apply:

1. Advertising must be truthful and not misleading;[11]
2. Advertisers must have evidence to back up their claims ("substantiation");[12] and
3. Advertisements cannot be unfair.[13]

8. 16 C.F.R. § 435.2(a).
9. 16 C.F.R. § 255.0(b).
10. Indeed, when the Endorsement Guides were reviewed in 2009, examples involving blogs were included, to make clear that the FTC Act applies to this then-new form of social media marketing.
11. As explained in the FTC's Deception Policy Statement, an ad is deceptive if it contains a statement — or omits information — that is likely to mislead consumers acting reasonably under the circumstances and is "material" or important to a consumer's decision to buy or use the product. *See FTC Policy Statement on Deception, appended to Cliffdale Associates, Inc.*, 103 F.T.C. 110, 174 ("Deception Policy Statement"), also available at www.ftc.gov/bcp/policystmt/ad-decept.htm. A statement also may be deceptive if the advertiser does not have a reasonable basis to support the claim. *See FTC Policy Statement on Advertising Substantiation, appended to Thompson Medical Co.*, 104 F.T.C. 648, 839 (1984), *aff'd*, 791 F.2d 189 (D.C. Cir. 1986), also available at www.ftc.gov/bcp/guides/ad3subst.htm.
12. Before disseminating an ad, advertisers must have appropriate support for all express and implied objective claims that the ad conveys to reasonable consumers. When an ad lends itself to more than one reasonable interpretation, there must be substantiation for each interpretation. The type of evidence needed to substantiate a claim may depend on the product, the claims, and what experts in the relevant field believe is necessary. If an ad specifies a certain level of support for a claim — "tests show x" — the advertiser must have at least that level of support.
13. According to the FTC Act, 15 U.S.C. § 45(n), and the FTC's Unfairness Policy Statement, an advertisement or business practice is unfair if it causes or is likely to cause substantial consumer injury that consumers could not reasonably avoid and that is not outweighed by the benefit to consumers or competition. *See FTC Policy Statement on Unfairness, appended to International Harvester Co.*, 104 F.T.C. 949, 1070 (1984), also available at www.ftc.gov/bcp/policystmt/ad-unfair.htm.

该规则涉及通过邮件、电话、传真或计算机订购的商品销售，适用于这些销售，无论"用于招揽订单的方法"如何。[8]以印刷、电话、广播、电视或在线方式进行的招揽自然属于该规则的范围。此外，《广告中使用背书和推荐指南》("背书指南")适用于"任何广告信息……消费者可能认为反映的是赞助广告商以外一方的意见、信念、发现或经验……"。[9]该指南提及广告时未限制其传播媒介，因此涵盖在线广告。[10]

III. 清晰且醒目的披露在在线广告中当涉及在线广告时，广告法的基本原则适用：

1. 广告必须真实且不得误导；[11]
2. 广告主必须拥有证据来支持其声明("实证");[12]以及
3. 广告不得具有不公平性。[13]

8. 16 C.F.R.435.2(a)。
9. 16 C.F.R.255.0(b)。
10. 事实上，在2009年审查《背书指南》时，就纳入了涉及博客的示例，以明确《FTC法》适用于这种当时新兴的社交媒体营销形式。
11. 正如 FTC 的《欺骗政策声明》所解释的，如果广告包含--或遗漏--可能误导在相关情形下合理行事的消费者的陈述或信息，且该陈述或信息对消费者购买或使用产品的决定具有"实质性"或重要性，则该广告具有欺骗性。参见 *FTC*《欺骗政策声明》，附于 *Cliffdale Associates, Inc.*,103 F.T.C.110, 174("《欺骗政策声明》")，亦可见于www.ftc.gov/bcp/policystmt/ad-decept.htm。如果广告主没有合理依据支持其声称，该陈述也可能具有欺骗性。参见 *FTC*《广告证实政策声明》，附于 *Thompson Medical Co.*,104 F.T.C.648, 839(1984),维持原判,791 F.2d 189(D.C.Cir.1986)，亦可见于www.ftc.gov/bcp/guides/ad3subst.
12. 在传播广告之前，广告商必须对广告向合理消费者传达的所有明示和暗示客观声称拥有适当的支持。当广告可以有多种合理解释时，必须为每种解释提供证实。证实声称所需的证据类型可能取决于产品、声称以及相关领域专家认为必要的内容。如果广告指定了声称的某种支持水平--"测试显示x"--广告商必须至少拥有该水平的支持。
13. 根据《FTC 法》，15 U.S.C.45(n)，以及 FTC 的《不公平政策声明》，如果广告或商业行为造成或可能造成消费者无法合理避免的实质性消费者损害，且该损害未被对消费者或竞争的利益所抵消，则该广告或商业行为不公平。参见 *FTC*《不公平政策声明》，附于 *International Harvester Co.*,104 F.T.C.949, 1070(1984)，亦可见于www.ftc.gov/bcp/policystmt/ad-unfair.htm。

Unique features in online ads — including advertising delivered via social media platforms or on mobile devices — may affect how an ad and any required disclosures are evaluated.

A. Background on Disclosures

Advertisers are responsible for ensuring that all express and implied claims that an ad conveys to reasonable consumers are truthful and substantiated. When identifying these claims, advertisers should not focus only on individual phrases or statements, but should consider the ad as a whole, including the text, product name, and depictions.[14] If an ad makes express or implied claims that are likely to be misleading without certain qualifying information, the information must be disclosed.

A disclosure can only qualify or limit a claim to avoid a misleading impression. It cannot cure a false claim. If a disclosure provides information that contradicts a material claim, the disclosure will not be sufficient to prevent the ad from being deceptive. In that situation, the claim itself must be modified.

Many Commission rules and guides spell out the information that must be disclosed in connection with certain claims. In many cases, these disclosures prevent a claim from being misleading or deceptive.[15] Other rules and guides require disclosures to ensure that consumers receive material information to assist them in making better-informed decisions,[16] or to implement statutes furthering public policy goals.[17] In all of these instances, if a disclosure is required, it must be clear and conspicuous.

14. Copy tests or other evidence of how consumers actually interpret an ad can be valuable. In many cases, however, the implications of the ad are clear enough to determine the existence of the claim by examining the ad alone, without extrinsic evidence.
15. For example, if an endorsement is not representative of the performance that consumers can generally expect to achieve with a product, advertisers must disclose the generally expected performance in the depicted circumstances. Endorsement Guides, 16 C.F.R. § 255.2.
16. For example, any solicitation for the purchase of consumer products with a warranty must disclose the text of the warranty offer or how consumers can obtain it for free. Pre-Sale Availability of Written Warranty Terms, 16 C.F.R. § 702.3.
17. For example, the required energy disclosures in the Energy Labeling Rule, 16 C.F.R. § 305, further the public policy goal of promoting energy conservation by providing consumers with clear comparative information.

在线广告中的独特功能--包括通过社交媒体投放的广告
平台或在移动设备上--可能影响对广告及任何所需披露的评估方式。

A. 披露的背景情况

广告主有责任确保广告向理性消费者传达的所有明示和暗示声明
都是真实且有实证支持的。在识别这些声明时，广告主不应仅关注个别短语或陈述，而应将广告作为一个整体来考量，包括文字、产品名称和描绘。[14]如果广告作出明示或暗示声明，且在没有某些限定信息的情况下很可能具有误导性，则必须披露该信息。

披露只能限定或限制某项声明以避免误导性印象。它不能
纠正虚假声明。如果披露提供的信息与实质性声明相矛盾，则该披露不足以防止广告具有欺骗性。在这种情况下，声明本身必须予以修改。

许多委员会规则和指南明确规定了必须披露的信息
与某些声明相关。在许多情况下，这些披露可防止声明具有误导性或欺骗性。[15]其他规则和指南要求披露，以确保消费者获得实质性信息，帮助他们作出更明智的决定，[16]或实施促进公共政策目标的法规。[17]在所有此类情形中，如果要求披露，则披露必须清晰且醒目。

14. 文案测试或其他关于消费者实际如何解读广告的证据可能很有价值。然而，在许多情况下，仅通过审查广告本身即可清楚确定声明的存在，无需外部证据。
15. 例如，如果背书不能代表消费者在一般情况下可以预期通过产品达到的性能，广告主必须披露在所描绘情形下一般可预期的性能。《背书指南》，16 C.F.R.255.2。
16. 例如，任何附有保证的消费者产品购买邀约都必须披露保证要约的文本或消费者如何免费获得该文本。书面保证条款的售前可获得性，16 C.F.R.702.3。
17. 例如，《能源标签规则》16 C.F.R.305 中要求的能源披露，通过向消费者提供清晰的比较信息，促进了节能这一公共政策目标。

B. The Clear and Conspicuous Requirement

Disclosures that are required to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, must be presented "clearly and conspicuously."[18] Whether a disclosure meets this standard is measured by its performance — that is, how consumers actually perceive and understand the disclosure within the context of the entire ad. The key is the overall net impression of the ad — that is, whether the claims consumers take from the ad are truthful and substantiated.[19] If a disclosure is not seen or comprehended, it will not change the net impression consumers take from the ad and therefore cannot qualify the claim to avoid a misleading impression.

In reviewing their ads, advertisers should adopt the perspective of a reasonable consumer.[20] They also should assume that consumers don't read an entire website or online screen, just as they don't read every word on a printed page.[21] Disclosures should be placed as close as possible to the claim they qualify. Advertisers should keep in mind that having to scroll increases the risk that consumers will miss a disclosure.

In addition, it is important for advertisers to draw attention to the disclosure. Consumers may not be looking for — or expecting to find — disclosures. Advertisers are responsible for ensuring that their messages are truthful and not deceptive. Accordingly, disclosures must be communicated effectively so that consumers are likely to notice and understand them in connection with the representations that the disclosures modify. Simply making the disclosure available somewhere in the ad, where some consumers might find it, does not meet the clear and conspicuous standard.

If a disclosure is necessary to prevent an advertisement from being deceptive, unfair, or otherwise violative of a Commission rule, and if it is not possible to make the disclosure clear and conspicuous, then either the claim should be modified so the disclosure is not necessary or the ad should not be disseminated. Moreover, if a particular platform does not provide an

18. Some rules and guides, as well as some FTC cases, use the phrase "clearly and prominently" instead of "clearly and conspicuously." As used in FTC rules, guides, and cases, these two phrases are synonymous. They may have different meanings under other statutes.
19. Deception Policy Statement at 175-76.
20. Deception Policy Statement at 178. The Deception Policy Statement also says that "[w]hen representations or sales practices are targeted to a specific audience, such as children, the elderly, or the terminally ill, the Commission determines the effect of the practice on a reasonable member of that group." *Id.* at 179 (footnote omitted).
21. Deception Policy Statement at 180-81.

B. 清晰显著要求

为防止广告具有欺骗性、不公平性而需要进行的披露，

或以其他方式违反委员会规则的，必须以"清晰且显著"的方式呈现。[18]披露是否达到这一标准，以其实际效果来衡量--即消费者在整个广告的语境中实际如何感知和理解该披露。关键在于广告的整体净印象--即消费者从广告中获得的陈述是否真实且有依据。[19]如果披露未被看到或未被理解，它就不会改变消费者从广告中获得的净印象，因此无法对陈述加以限定以避免误导性印象。

在审查其广告时，广告主应采取合理

消费者。[20]他们还应假定消费者不会阅读整个网站或在线屏幕，正如他们不会阅读印刷页面上的每一个字一样。[21]披露应尽可能靠近其所限定的声明。广告主应牢记，需要滚动浏览会增加消费者错过披露的风险。

此外，广告主必须将注意力引向披露，这一点很重要。消费者

可能不会寻找--或预期找到--披露。广告主有责任确保其信息真实且不具有欺骗性。因此，披露必须有效传达，使消费者在接触披露所修改的陈述时很可能注意到并理解它们。仅仅在广告中某个消费者可能找到的地方提供披露，并不符合清晰且醒目的标准。

如果披露对于防止广告具有欺骗性、不公平或

以其他方式违反委员会规则是必要的，且如果无法使披露清晰且醒目，则应修改声明以使披露不再必要，或不应传播该广告。此外，如果特定平台不提供

18. 一些规则和指南以及一些FTC案件使用"清晰且突出"而非"清晰且醒目"的表述。在FTC规则、指南和案件中使用时，这两个短语是同义的。在其他法规下它们可能具有不同含义。
19. 欺骗政策声明，第175-76页。
20. 《欺骗政策声明》第178页。《欺骗政策声明》还指出，"当陈述或销售行为针对特定受众，如儿童、老年人或绝症患者时，委员会确定该行为对该群体中理性成员的影响。"同上。第179页(脚注省略)。
21. 180-81 的《欺骗政策声明》。

opportunity to make clear and conspicuous disclosures, it should not be used to disseminate advertisements that require such disclosures.[22]

C. What Are Clear and Conspicuous Disclosures?

There is no set formula for a clear and conspicuous disclosure; it depends on the information that must be provided and the nature of the advertisement. Some disclosures are quite short, while others are more detailed. Some ads use only text, while others use graphics, video, or audio, or combinations thereof. Advertisers have the flexibility to be creative in designing their ads, as long as necessary information is communicated effectively and the overall message conveyed to consumers is not misleading.

To evaluate whether a particular disclosure is clear and conspicuous, consider:

- the placement of the disclosure in the advertisement and its proximity to the claim it is qualifying;
- the prominence of the disclosure;
- whether the disclosure is unavoidable;
- the extent to which items in other parts of the advertisement might distract attention from the disclosure;
- whether the disclosure needs to be repeated several times in order to be effectively communicated, or because consumers may enter the site at different locations or travel through the site on paths that cause them to miss the disclosure;
- whether disclosures in audio messages are presented in an adequate volume and cadence and visual disclosures appear for a sufficient duration; and
- whether the language of the disclosure is understandable to the intended audience.

If there are indications that a significant proportion of reasonable consumers are not noticing or comprehending a necessary disclosure, the disclosure should be improved.

The following discussion uses these traditional factors to evaluate whether disclosures are likely to be clear and conspicuous in the context of online ads. Hyperlinks labeled as

22. This approach mirrors one articulated by the Commission in 1970, when it said that if disclosures in television ads could not be understood, then ads containing representations requiring those disclosures should not be aired. *See Commission Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosures in Television Advertising* (Oct. 21, 1970).

作出清晰且醒目披露的机会，则不应使用该平台传播需要此类披露的广告。[22]

C. 什么是清晰且醒目的披露?

清晰且醒目的披露没有固定公式；它取决于

必须提供的信息以及广告的性质。有些披露相当简短，而另一些则更为详细。有些广告仅使用文字，而另一些则使用图形、视频或音频，或其组合。广告主可以灵活地创造性地设计其广告，只要必要信息得到有效传达且向消费者传达的整体信息不具有误导性。

要评估特定披露是否清晰且醒目，应考虑：• •披露在广告中的位置及其与所限定声明的邻近程度

是合格的；

• •披露的显著程度；

• •该披露是否不可避免；

• •广告其他部分的内容可能在多大程度上分散注意力

从披露中；

•• 披露是否需要重复多次才能有效

传达，或者因为消费者可能从不同位置进入网站或以导致其错过披露的路径浏览网站；• •音频信息中的披露是否以足够的音量和

节奏和视觉披露出现足够长的持续时间；以及• •披露的语言是否为目标受众所能理解。如果有迹象表明相当比例的理性消费者没有

注意到或理解必要的披露，则应改进该披露。

以下讨论使用这些传统因素来评估披露是否

在在线广告的语境中是否可能清晰且醒目。标记为

22. 这一做法与委员会在1970年阐述的做法一致，当时委员会表示，如果电视广告中的披露无法被理解，那么包含需要这些披露的陈述的广告就不应播出。参见委员会关于电视广告中清晰且醒目披露的执法政策声明(1970年10月21日)。

Examples in the text link to mock ads in the appendix. Each mock ad presents a scenario to illustrate one or more particular factors. Advertisers must consider all of the factors, however, and evaluate an actual disclosure in the context of the ad as a whole.

1. Proximity and Placement

A disclosure is more effective if it is placed near the claim it qualifies or other relevant information. Proximity increases the likelihood that consumers will see the disclosure and relate it to the relevant claim or product. For print ads, an advertiser might measure proximity in terms of whether the disclosure is placed adjacent to the claim, or whether it is separated from the claim by text or graphics. The same approach can be used for online ads. Websites, and mobile applications, however, are interactive and have a certain depth — with multiple pages or screens linked together and pop-up screens, for example — that may affect how proximity is evaluated. Mobile devices also present additional issues because a disclosure that would appear on the same screen of a standard desktop computer might, instead, require significant vertical and horizontal scrolling on a mobile screen. In evaluating placement, advertisers should also take into consideration empirical research about where consumers do and do not look on a screen.

a. Evaluating Proximity

A disclosure is more likely to be effective if consumers view the disclosure and the claim that raises the need for disclosure (often referred to as a "triggering claim") together on the same screen. Example 1 Even if a disclosure is not tied to a particular word or phrase, it is more likely that consumers will notice it if it is placed next to the information, product, or service to which it relates.

Often, disclosures consist of a word or phrase that may be easily incorporated into the text, along with the claim. Doing so increases the likelihood that consumers will see the disclosure and relate it to the relevant claim.

In some circumstances, it may be difficult to ensure that a disclosure appears on the "same screen" as a claim or product information. Some disclosures are long and thus difficult to place next to the claims they qualify. In addition, computers, tablets, smartphones, and other connected devices have varying screen sizes that display ads and websites differently. In these situations, an advertiser might place a disclosure where consumers might have to scroll to reach it. Requiring consumers to scroll in order to view a disclosure may be

示例在正文中链接到附录中的模拟广告。每个模拟广告呈现一个场景，以说明一个或多个特定因素。然而，广告主必须考虑所有因素，并在广告整体的语境中评估实际披露。

1. 邻近性与放置

如果披露被放置在其所限定的陈述或其他相关

信息。邻近性增加了消费者看到披露并将其与相关陈述或产品联系起来的可能性。对于印刷广告，广告主可以从披露是否放置在陈述旁边，或者是否被文字或图形与陈述隔开的角度来衡量邻近性。同样的方法可用于在线广告。然而，网站和移动应用程序具有交互性并具有一定深度--例如多个页面或屏幕相互链接以及弹出屏幕--这可能影响对邻近性的评估。移动设备还带来额外问题，因为在标准台式电脑屏幕上会出现在同一屏幕上的披露，在移动屏幕上可能反而需要大量垂直和水平滚动。在评估放置位置时，广告主还应考虑关于消费者在屏幕上看向何处和不看向何处的实证研究。

a.评估邻近性

如果消费者在同一屏幕上同时看到披露和引发披露需求的陈述

(通常称为"触发陈述")，披露就更可能有效。示例1即使披露并未与特定词语或短语绑定，如果它被放置在其所涉及的信息、产品或服务旁边，消费者也更可能注意到它。

通常，披露由可以轻松融入的单词或短语组成

文本的词语或短语连同陈述一起组成。这样做增加了消费者看到披露并将其与相关陈述联系起来的可能性。

在某些情况下，可能难以确保披露出现在

与陈述或产品信息相同的"屏幕"上。有些披露很长，因而难以放置在其所限定的陈述旁边。此外，计算机、平板电脑、智能手机和其他联网设备的屏幕尺寸各不相同，显示广告和网站的方式也不同。在这些情况下，广告主可能将披露放在消费者可能需要滚动才能到达的位置。然而，要求消费者滚动才能查看披露可能

problematic, however, because consumers who don't scroll enough (and in the right direction) may miss important qualifying information and be misled.

When advertisers are putting disclosures in a place where consumers might have to scroll in order to view them, they should use text or visual cues to encourage consumers to scroll and avoid formats that discourage scrolling.

Text prompts can indicate that more information is available. An explicit instruction like "see below for important information on restocking fees" will alert consumers to scroll and look for the information. The text prompt should be tied to the disclosure to which it refers. General or vague statements, such as "details below," provide no indication about the subject matter or importance of the information that consumers will find and are not adequate cues.

The visual design of the page also could help alert consumers to the availability of more information. For example, text that clearly continues below the screen, whether spread over an entire page or in a column, would indicate that the reader needs to scroll for additional information. Advertisers should consider how the page is displayed when viewed on different devices.

Scroll bars along the edges of a screen are not a sufficiently effective visual cue. Although the scroll bars may indicate to some consumers that they have not reached the bottom or sides of a page, many consumers may not look at the scroll bar and some consumers access the Internet with devices that don't display a scroll bar.

The design of some pages might indicate that there is no more information following and, therefore, no need to continue scrolling. If the text ends before the bottom of the screen or readers see an expanse of blank space, they may stop scrolling and miss the disclosure. Example 2 They will also likely stop scrolling when they see the information and types of links that normally signify the bottom of a webpage, *e.g.*, "contact us," "terms and conditions," "privacy policy," and "copyright." In addition, if there is a lot of unrelated information — either words or graphics — separating a claim and a disclosure, even a consumer who is prompted to scroll might miss the disclosure or not relate it to a distant claim they've already read.

If scrolling is necessary to view a disclosure, then, ideally, the disclosure should be unavoidable — consumers should not be able to proceed further with a transaction, *e.g.*, click forward, without scrolling through the disclosure. Making a disclosure unavoidable increases the likelihood that consumers will see it.

存在问题，因为滚动不够(且方向不正确)的消费者可能错过重要的限定信息并被误导。

当广告商将披露放在消费者可能需要

滚动才能查看的位置时，他们应使用文字或视觉提示来鼓励消费者滚动，并避免使用阻碍滚动的格式。

文本提示可以表明有更多信息可用。像这样的明确指示

"参见下方关于补货费的重要信息"这样的明确指示会提醒消费者滚动并寻找信息。文字提示应与其所指的披露相关联。笼统或含糊的陈述，如"详情见下方"，没有表明消费者将找到的信息的主题或重要性，不是充分的提示。

页面的视觉设计也可以帮助提醒消费者有更多

信息可用。例如，明显在屏幕下方继续的文字，无论是分布在整个页面还是在一栏中，都会表明读者需要滚动以获取更多信息。广告主应考虑页面在不同设备上查看时的显示方式。

屏幕边缘的滚动条不是足够有效的视觉提示。

尽管滚动条可能向某些消费者表明他们尚未到达页面的底部或侧边，但许多消费者可能不会看滚动条，而且一些消费者使用不显示滚动条的设备访问互联网。

某些页面的设计可能表明后面没有更多信息

因此，无需继续滚动。如果文字在屏幕底部之前结束，或者读者看到大片空白区域，他们可能会停止滚动并错过披露。示例2当他们看到通常表示网页底部的信息和链接类型时，例如,"联系我们"、"条款和条件"、"隐私政策"和"版权"，他们也可能停止滚动。此外，如果有大量无关信息--无论是文字还是图形--将陈述与披露隔开，即使是被提示滚动的消费者也可能错过披露，或者无法将其与他们已经读过的相距较远的陈述联系起来。

如果查看披露需要滚动，那么理想情况下，披露应当是

不可避免的--消费者不应能够在不滚动浏览披露的情况下继续交易，例如，点击前进。使披露不可避免增加了消费者看到它的可能性。

Because of their small screens, smartphones (and some tablets) potentially require horizontal, as well as vertical, scrolling. Placing a disclosure in a different column of a webpage from the claim it modifies could make it unlikely that consumers who have to zoom in to read the claim on a small screen will scroll right or left to a different column and read the disclosure. Example 3 Optimizing a website for mobile devices will eliminate the need for consumers to scroll right or left, although it will not necessarily address the need for vertical scrolling.

b. Hyperlinking to a Disclosure

Hyperlinks allow additional information to be placed on a webpage entirely separate from the relevant claim. Hyperlinks can provide a useful means to access disclosures that are not integral to the triggering claim, provided certain conditions (discussed below) are met. Hyperlinked disclosures may be particularly useful if the disclosure is lengthy or if it needs to be repeated (because of multiple triggering claims, for example).

However, in many situations, hyperlinks are not necessary to convey disclosures. If a disclosure consists of a word or phrase that may be easily incorporated into the text, along with the claim, this placement increases the likelihood that consumers will see the disclosure and relate it to the relevant claim.

Disclosures that are an integral part of a claim or inseparable from it should not be communicated through a hyperlink. Instead, they should be placed on the same page and immediately next to the claim, and be sufficiently prominent so that the claim and the disclosure are read at the same time, without referring the consumer somewhere else to obtain this important information. This is particularly true for cost information or certain health and safety disclosures. Example 4 Indeed, required disclosures about serious health and safety issues are unlikely to be effective when accessible only through a hyperlink. Similarly, if a product's basic cost (*e.g.*, the cost of the item before taxes, shipping and handling, and any other fees are added on) is advertised on one page, but there are significant additional fees the consumer would not expect to incur in order to purchase the product or use it on an ongoing basis, the existence and nature of those additional fees should be disclosed on the same page and immediately adjacent to the cost claim, and with appropriate prominence.

However, if the details about the additional fees are too complex to describe adjacent to the price claim, those details may be provided by using a hyperlink. Example 5 The hyperlink should be clearly labeled to communicate the specific nature of the information to which it

由于屏幕小，智能手机(以及某些平板电脑)可能需要

水平以及垂直滚动。将披露放在与其所修改的陈述不同的网页栏中，可能使那些必须放大才能在小屏幕上阅读陈述的消费者不太可能向右或向左滚动到不同栏并阅读披露。示例3为移动设备优化网站将消除消费者向右或向左滚动的需要，尽管它不一定能解决垂直滚动的需要。

b.指向披露信息的超链接

超链接允许将附加信息放在网页上完全独立

于相关陈述的位置。只要满足某些条件(下文讨论)，超链接可以提供一种有用的方式来访问并非触发陈述所不可或缺的披露。如果披露冗长或需要重复(例如，由于多个触发陈述)，超链接披露可能特别有用。

然而，在许多情况下，超链接并非传达披露所必需。如果

披露由可轻易融入文本的词语或短语构成，并与该主张一同呈现，此种放置方式增加了消费者看到该披露并将其与相关主张联系起来可能性。

作为主张组成部分或与之不可分割的披露不应

通过超链接传达。相反，它们应放置在同一页面上并紧邻陈述，且足够醒目，以便陈述和披露被同时阅读，而无需让消费者到其他地方获取这一重要信息。对于成本信息或某些健康和安全披露而言尤其如此。示例4事实上，关于严重健康和安全问题的必要披露如果仅能通过超链接访问，就不太可能有效。同样，如果产品的基本成本(例如，在加税、运费和处理费以及任何其他费用之前的商品成本)在一页上做广告，但消费者为购买产品或持续使用产品而会产生其不会预期的重大额外费用，则这些额外费用的存在和性质应在同一页面上并紧邻成本陈述予以披露，且具有适当的醒目性。

然而，如果关于附加费用的细节过于复杂，无法在

价格主张附近进行描述，则这些细节可通过使用超链接提供。示例 5超链接应清晰标注，以传达其所指向信息的特定性质，

leads, *e.g.*, “Service plan required. Get service plan prices.” The hyperlink should appear adjacent to the price. Moreover, because consumers should not have to click on hyperlinks to understand the full amount they will pay, all cost information — including any such additional fees — should be presented to them clearly and conspicuously prior to purchase.

The key considerations for evaluating the effectiveness of all hyperlinks are:

- the labeling or description of the hyperlink;
- consistency in the use of hyperlink styles;
- the placement and prominence of the hyperlink on the webpage or screen; and
- the handling of the disclosure on the click-through page or screen.

Choosing the right label for the hyperlink. A hyperlink that leads to a disclosure should be labeled clearly and conspicuously. The hyperlink’s label — the text or graphic assigned to it — affects whether consumers actually click on it and see and read the disclosure.

- **Make it obvious.** Consumers should be able to tell that they can click on a hyperlink to get more information. Simply underlining text may be insufficient to inform consumers that the text is a hyperlink. Using multiple methods of identifying hyperlinks, such as both a different color from other text and underscoring, makes it more likely that hyperlinks will be recognized.
- **Label the link to convey the importance, nature, and relevance of the information to which it leads.** Example 6 The hyperlink should give consumers a reason to click on it. That is, the label should make clear that the link is related to a particular advertising claim or product and indicate the nature of the information to be found by clicking on it. The hyperlink label should use clear, understandable text. Although the label itself does not need to contain the complete disclosure, it may be necessary to incorporate part of the disclosure to indicate the type and importance of the information to which the link leads. On the other hand, in those cases where seeing a hyperlinked disclosure is unavoidable if a consumer is going to take any action with respect to a product or service — *e.g.*, the product or service can only be purchased online and the consumer must click on that link to proceed to a transaction — the label of the hyperlink may be less important.
- **Don’t hide the ball.** Some text links provide no indication about why a claim is qualified or the nature of the disclosure. Example 7 In many cases, simply

引导，例如,“需要服务计划。获取服务计划价格。”超链接应出现在价格旁边。此外，由于消费者不应必须点击超链接才能了解他们将支付的总额，所有成本信息--包括任何此类额外费用--应在购买前以清晰且醒目的方式呈现给他们。

评估所有超链接有效性的关键考量因素为：

- 超链接的标注或描述；
- 超链接样式使用的一致性；
- 超链接在网页或屏幕上的放置位置和醒目程度；以及
- 点击跳转页面或屏幕上对披露的处理方式。

为超链接选择正确的标签。指向披露内容的超链接应清晰且醒目地标注。超链接的标注--即分配给它的文本或图形--影响消费者是否实际点击它并看到和阅读该披露。

- **使其显而易见。**消费者应当能够看出他们可以点击超链接以获取更多信息。仅对文本加下划线可能不足以告知消费者该文本是超链接。使用多种识别超链接的方法，例如既采用与其他文本不同的颜色又加下划线，会使超链接更有可能被识别。
- **为链接添加标签，以传达其重要性、性质和相关其所指向的信息。**示例 6超链接应给消费者一个点击它的理由。也就是说，标签应明确表明该链接与某一特定广告声称或产品相关，并说明点击该链接所能找到的信息的性质。超链接标签应使用清晰、易懂的文字。尽管标签本身不需要包含完整的披露内容，但可能有必要纳入部分披露内容，以表明该链接所指向信息的类型和重要性。另一方面，在消费者若要对产品或服务采取任何行动就不可避免地会看到超链接披露的情形下--例如，产品或服务只能在线购买，且消费者必须点击该链接才能继续交易--超链接的标签可能不那么重要。
- 不要藏球。有些文本链接没有提供任何关于为什么提出某项主张的提示为何受到限定或披露性质的说明。示例 7在许多情况下，仅

hyperlinking a single word or phrase in the text of an ad is not likely to be effective. Although some consumers may understand that additional information is available, they may have different ideas about the nature of the information and its significance.

Hyperlinks that simply say "disclaimer," "more information," "details," "terms and conditions," or "fine print" do not convey the importance, nature, and relevance of the information to which they lead and are likely to be inadequate. Even labels such as "important information" or "important limitations" may be inadequate. Examples 8 & 9 Unfortunately, there is no one-size-fits-all word or phrase that can be used as a hyperlink label, but more specificity will generally be better.

- **Don't be subtle.** Symbols or icons by themselves are not likely to be effective as hyperlink labels leading to disclosures that are necessary to prevent deception.[23] Example 10 A symbol or icon might not provide sufficient clues about why a claim is qualified or the nature of the disclosure.[24] It is possible that consumers may view a symbol as just another graphic on the page. Even if a website explains that a particular symbol or icon is a hyperlink to important information, consumers might miss the explanation, depending on where they enter the site and how they navigate through it.
- **Account for technological differences and limitations.** Consider whether and how your linking technique will work on the various programs and devices that could be used to view your advertisement.[25]

Using hyperlink styles consistently increases the likelihood that consumers will know when a link is available. Although the text or graphics used to signal a hyperlink may differ across websites and applications, treating hyperlinks inconsistently within a single site or application can increase the chances that consumers will miss — or not click on — a

23. The Commission has, however, acknowledged the potential utility of icons in the privacy area. *See* FTC, *Protecting Consumer Privacy in an Era of Rapid Change, Recommendations for Businesses and Policymakers* (Mar. 2012), *available at* www.ftc.gov/os/2012/03/120326privacyreport.pdf; *see also* FTC Staff, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), *available at* www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf.
24. Symbols and icons also are used in different ways online, which could confuse consumers as to where the related disclosure can be found. Some online symbols and icons are hyperlinks that click through to a separate page; some are meant to communicate disclosure information themselves; and others are static, referring to a disclosure at the bottom of the page.
25. For example, "mouse-overs" may not work on mobile devices that have no cursor to hover over a link.

在广告文本中对单个词或短语进行超链接不太可能有效。尽管一些消费者可能理解可以获得额外信息，但他们可能对信息的性质及其重要性有不同的理解。

仅写着"免责声明""更多信息""详情""条款"的超链接

"条款和条件"或"细则"并未传达其所指向信息的重要性、性质和相关性，很可能不够充分。即使是"重要信息"或"重要限制"等标签也可能不够充分。

示例 8 和 9遗憾的是，没有一种放之四海而皆准的词语或短语可用作超链接标签，但通常越具体越好。

- **不要含糊其辞。**仅靠符号或图标不太可能有效

指向为防止欺骗所必需的披露的超链接标签。[23]示例 10符号或图标可能无法提供足够的线索，说明某项声明为何被限定或披露的性质。[24]消费者可能将符号仅仅视为页面上的另一个图形。即使网站解释某个特定符号或图标是指向重要信息的超链接，消费者也可能错过该解释，这取决于他们进入网站的位置以及如何浏览网站。

- **考虑技术差异和限制。**考虑是否以及

链接技术将如何在可能用于查看您广告的各种程序和设备上运作。[25]

一致使用超链接样式会增加消费者的可能性

知道何时有可用链接。尽管用于标示超链接的文本或图形在不同网站和应用程序中可能有所不同，但在同一网站或应用程序内不一致地处理超链接，会增加消费者错过--或不点击--某个链接的可能性

23. 然而，委员会已认可图标在隐私领域的潜在效用。参见 FTC,在快速变化时代保护消费者隐私：面向企业与政策制定者的建议(2012年3月),可访问于www.ftc.gov/os/2012/03/120326privacyreport.pdf;另参见 FTC Staff,儿童移动应用：当前隐私披露令人失望(2012年2月),可访问于~~www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf。~~
24. 符号和图标在网上也有不同的使用方式，这可能会使消费者困惑于在哪里可以找到相关的披露。一些在线符号和图标是点击后跳转到单独页面的超链接；一些旨在自身传达披露信息；还有一些是静态的，指向页面底部的披露。
25. 例如，"鼠标悬停"可能在没有光标可悬停在链接上的移动设备上无法使用。

disclosure hyperlink. For example, if hyperlinks usually are underlined in a site, chances are consumers wouldn't recognize italicized text as being a link, and could miss the disclosure.

Placing the link near relevant information and making it noticeable. The hyperlink should be proximate to the claim that triggers the disclosure so consumers can notice it easily and relate it to the claim. Examples 11 & 12 Typically, this means that the hyperlink is adjacent to the triggering term or other relevant information. Consumers may miss disclosure hyperlinks that are separated from the relevant claim by text, graphics, blank space, or intervening hyperlinks, especially on devices with small screens. Format, color, or other graphics treatment also can help to ensure that consumers notice the link. (See below for more information on prominence.)

Getting to the disclosure on the click-through should be easy. The click-through page or screen — that is, the page or screen the hyperlink leads to — must contain the complete disclosure and that disclosure must be displayed prominently. Distracting visual factors, extraneous information, and opportunities to "click" elsewhere before viewing the disclosure can obscure an otherwise adequate disclaimer.

- **Get consumers to the message quickly.** The hyperlink should take consumers directly to the disclosure. They shouldn't have to search a click-through page or go to other places for the information. In addition, the disclosure should be easy to understand.
- **Pay attention to indicia that hyperlinked disclosures are not effective.** Although advertisers are not required to use them, some available tools may indicate to advertisers that their disclosures accessed through hyperlinks are not effective. For example, advertisers can monitor click-through rates, *i.e.*, how often consumers click on a hyperlink and view the click-through information. Advertisers also can evaluate the amount of time visitors spend on a certain page, which may indicate whether consumers are reading the disclosure.
- **Don't ignore your data.** If hyperlinks are not followed, another method of conveying the required information would be necessary.

c. Using High Tech Methods for Proximity and Placement

Disclosures may be displayed on websites or in applications in many ways. For example, a disclosure may be placed in a frame that remains constant even as the consumer scrolls down the page or navigates through another part of the site or application. A disclosure

披露超链接。例如，如果某个网站上的超链接通常带有下划线，消费者很可能不会将斜体文本识别为链接，从而可能错过披露。

将链接放在相关信息附近并使其显眼。该超链接

应当靠近触发披露的声明，以便消费者能够容易地注意到它并将其与该声明联系起来。示例 11 和 12通常，这意味着超链接紧邻触发术语或其他相关信息。消费者可能会错过与相关声明被文本、图形、空白或中间超链接隔开的披露超链接，尤其是在小屏幕设备上。格式、颜色或其他图形处理也有助于确保消费者注意到该链接。(有关显著性的更多信息，见下文。)

进入点击跳转页面上的披露应当很容易。该点击跳转

页面或屏幕--即超链接所指向的页面或屏幕--必须包含完整的披露，且该披露必须醒目地展示。分散注意力的视觉因素、无关信息以及在查看披露之前"点击"其他内容的机会，都可能使原本充分的免责声明变得模糊。

- **让消费者快速看到信息。**该超链接应当将消费者

直接到达披露。他们不应需要搜索点击跳转页面或前往其他地方获取信息。此外，披露应当易于理解。

- **注意表明超链接披露无效的迹象。**

尽管不要求广告商使用这些工具，但一些可用的工具可能会向广告商表明，其通过超链接访问的披露无效。例如，广告商可以监测点击率，即，消费者点击超链接并查看点击跳转信息的频率。广告商还可以评估访客在某一页面上花费的时间，这可能表明消费者是否在阅读披露。

- **不要忽视你的数据。**如果超链接未被点击，另一种方法

传达所需信息将是必要的。

c. 使用高科技方法进行邻近与放置

披露信息可以通过多种方式在网站或应用程序中展示。对于

例如，披露可以放置在一个框架中，即使消费者向下滚动页面或浏览网站或应用程序的另一部分，该框架也保持不变。披露

also might be displayed in a window that pops up or on interstitial pages that appear while another webpage is loading. New techniques for displaying information are being developed all the time. But there are special considerations for evaluating whether a technique is appropriate for providing required disclosures.

- **Don't ignore technological limitations.** Some browsers or devices may not support certain techniques for displaying disclosures or may display them in a manner that makes them difficult to read. For example, a disclosure that requires Adobe Flash Player will not be displayed on certain mobile devices.
- **Don't use blockable pop-up disclosures.** Advertisers should not disclose necessary information through the use of pop-ups that could be prevented from appearing by pop-up blocking software.
- **Be aware of other issues with pop-up disclosures.** Even the use of unblockable pop-ups to disclose necessary information may be problematic. Some consumers may not read information in pop-up windows or interstitials because they immediately close the pop-ups or move to the next page in pursuit of completing their intended tasks, or because they don't associate information in a pop-up window or on an interstitial page to a claim or product they haven't encountered yet. However, advertisers can take steps to avoid such problems, *e.g.*, by requiring the consumer to take some affirmative action to proceed past the pop-up or interstitial (for example, by requiring consumers to choose between "yes" and "no" buttons without use of preselected buttons before continuing). Research may be useful to help advertisers determine whether a particular technique is an effective method of communicating information to consumers.

d. Displaying Disclosures Prior to Purchase

Disclosures must be effectively communicated to consumers before they make a purchase or incur a financial obligation. In general, disclosures are more likely to be effective if they are provided in the context of the ad, when the consumer is considering the purchase. Different considerations apply, however, in different situations. Where advertising and selling are combined on a website or mobile application — that is, the consumer will be completing the transaction online — disclosures should be provided before the consumer makes the decision to buy, *e.g.*, before clicking on an "order now" button or a link that says "add to shopping cart." Example 13

也可以显示在弹出窗口中，或显示在另一个网页加载时出现的插页式页面上。展示信息的新技术一直在不断开发。但在评估某项技术是否适合提供所需披露时，有特殊的考量因素。

- **不要忽视技术限制。**某些浏览器或设备可能不会

  支持某些展示披露的技术，或可能以使其难以阅读的方式展示披露。例如，需要 Adobe Flash Player 的披露将不会在某些移动设备上显示。

- **不要使用可被拦截的弹出式披露。**广告主不应披露

  通过使用可能被弹窗拦截软件阻止出现的弹窗来提供必要信息。

- **注意弹出式披露的其他问题。**即使使用不可拦截的

  使用弹出窗口披露必要信息可能存在问题。一些消费者可能不会阅读弹出窗口或插页式页面中的信息，因为他们会立即关闭弹出窗口或转到下一页以完成其预期任务，或者因为他们不会将弹出窗口或插页式页面中的信息与他们尚未遇到的声明或产品联系起来。然而，广告商可以采取措施避免此类问题，例如，要求消费者采取某些肯定性行动才能越过弹出窗口或插页式页面(例如，要求消费者在继续之前在不使用预选按钮的情况下在"是"和"否"按钮之间做出选择)。研究可能有助于广告商确定某种特定技术是否是向消费者传达信息的有效方法。

d. 购买前展示披露信息

披露必须在消费者作出决定之前以有效方式传达给消费者。

购买或承担财务义务。一般而言，如果披露是在广告的语境中、在消费者考虑购买时提供的，则更可能有效。然而，不同情况下适用不同的考量。当广告和销售在网站或移动应用程序上结合在一起时--即消费者将在网上完成交易--披露应在消费者做出购买决定之前提供，例如，在点击"立即订购"按钮或显示"加入购物车"的链接之前。示例 13

- **Don't focus only on the order screen.** Some disclosures must be made in conjunction with the relevant claim or product. Consumers may not relate a disclosure on the order screen to information they viewed much earlier. It also is possible that after surfing a company's website, some consumers may decide to purchase the product from the company's brick and mortar store. Those consumers would miss any disclosures placed only on the ordering screen. So that these consumers do not miss a necessary disclosure, it may have to be on the same page as the claim it qualifies.

When a product advertised online can be purchased from brick and mortar stores or from online retailers other than the advertiser itself, necessary disclosures should be made in the ad before consumers go to other outlets to make their purchase. Example 14 An in-store disclosure or one placed on an unrelated online retailer's website is unlikely to cure an otherwise deceptive advertisement.

e. Evaluating Proximity in Space-Constrained Ads

Many space-constrained ads displayed today are teasers. Because of their small size and/or short length, space-constrained ads, such as banner ads and tweets, generally do not provide very much information about a product or service. Often, consumers must click through to the website to get more information and learn the terms of an offer. If a space-constrained ad contains a claim that requires qualification, the advertiser disseminating it is not exempt from disclosure requirements.

- **Disclose required information in the space-constrained ad itself or clearly and conspicuously on the website to which it links.** In some cases, a required disclosure can easily be incorporated into a space-constrained ad. Example 15 In other instances, the disclosures may be too detailed to be disclosed effectively in the ad itself. These disclosures may sometimes be communicated effectively to consumers if they are made clearly and conspicuously on the website to which the ad links. In determining whether the disclosure should be placed in the space-constrained ad itself or on the website to which the ad links, advertisers should consider how important the information is to prevent deception, how much information needs to be disclosed, the burden of disclosing it in the ad itself, how much information the consumer may absorb from the ad, and how effective the disclosure would be if it were made on the website. If a product promoted in a space-constrained ad can be bought in a brick and mortar store, consumers who do

- **不要只关注订单页面。**某些披露必须在

与相关的声明或产品相结合。消费者可能无法将订单屏幕上的披露与他们很久之前查看的信息联系起来。还有一种可能是，在浏览公司网站后，一些消费者可能决定从公司的实体店购买产品。这些消费者会错过仅放置在订购屏幕上的任何披露。因此，为了这些消费者不遗漏必要的披露，它可能必须与其所限定的声明位于同一页面上。

当在线广告的产品可以从实体店购买，或

广告商本身以外的在线零售商处购买时，必要披露应在消费者前往其他渠道进行购买之前，在广告中作出。示例 14店内披露或放置在与广告商无关的在线零售商网站上的披露，不太可能补救原本具有欺骗性的广告。

e. 评估空间受限广告中的邻近性

如今展示的许多受空间限制的广告都是预告片。由于它们的小

由于尺寸和/或长度较短，空间受限的广告(如横幅广告和推文)通常不会提供太多关于产品或服务的信息。消费者往往必须点击跳转到网站才能获取更多信息并了解优惠条款。如果空间受限的广告包含需要限定的声称，传播该广告的广告商并不能豁免披露要求。

- **在空间受限的广告本身中披露所需信息，或清楚地**

并显著地在其链接所指向的网站上。在某些情况下，所要求的披露可以容易地纳入空间受限的广告中。示例 15在其他情况下，披露内容可能过于详细，无法在广告本身中有效披露。如果这些披露在广告链接所指向的网站上以清晰且显著的方式作出，有时可以有效地传达给消费者。在确定披露应置于空间受限的广告本身还是置于广告链接所指向的网站上时，广告主应考虑该信息对防止欺骗有多重要、需要披露多少信息、在广告本身中披露该信息的负担、消费者可能从广告中吸收多少信息，以及如果披露放在网站上会有多有效。如果空间受限的广告中推广的产品可以在实体店购买，消费者若

not click through to a linked website would miss any disclosure that was not in the space-constrained ad itself. If the disclosure needs to be in the ad itself but it does not fit, the ad should be modified so it does not require such a disclosure or, if that is not possible, that space-constrained ad should not be used.

- **Use creativity to incorporate or flag required information.** Scrolling text or rotating panels in a banner ad can present an abbreviated version of a required disclosure that indicates additional important information and a more complete disclosure are available on the click-through page.
- **Use disclosures in each ad.** If a disclosure is required in a space-constrained ad, such as a tweet, the disclosure should be in each and every ad that would require a disclosure if that ad were viewed in isolation. Do not assume that consumers will see and associate multiple space-constrained advertisements. Example 16
- **Short-form disclosures might or might not adequately inform consumers of the essence of a required disclosure.** For example, "Ad:" at the beginning of a tweet or similar short-form message should inform consumers that the message is an advertisement, and the word "Sponsored" likely informs consumers that the message was sponsored by an advertiser. Other abbreviations or icons may or may not be adequate, depending on whether they are presented clearly and conspicuously, and whether consumers understand their meaning so they are not misled.[26] Example 17 Misleading a significant minority of reasonable consumers is a violation of the FTC Act.[27]
- **Maintaining disclosures with republication.** Advertisers should employ best practices to make it less likely that disclosures will be deleted from space-constrained ads when they are republished by others. Some disclosures can be placed at the beginning of a short-form message. Alternatively, if a disclosure is placed at the end of a message, the original message can be written with enough free space that the disclosure is not lost if the message is republished with a comment by others.

26. Empirical evidence may be necessary to demonstrate that certain abbreviations or icons are effective, at least until such time that their usage is sufficiently widespread to provide confidence that consumers see them and understand what they mean. As of the date of publication of this document, such evidence was not available.
27. Deception Policy Statement at 177 n.20.

不点击进入链接网站，就会错过任何未在空间受限的广告本身中呈现的披露。如果披露需要放在广告本身中但无法容纳，则应修改广告使其不再需要此类披露；如果无法做到，则不应使用该空间受限的广告。

- **运用创意来纳入或标示所需信息。**滚动文字或

  横幅广告中的旋转面板可以呈现所需披露的简略版本，表明点击进入页面可获取更多重要信息和更完整的披露。

- **在每个广告中使用披露。**如果空间受限的广告中要求披露，

  则每一个单独查看时需要披露的广告中都应包含该披露。不要假设消费者会看到并关联多个空间受限的广告。示例 16

- **简短形式的披露可能或可能不足以告知消费者**

  所要求披露的实质内容。例如，在推文或类似短格式消息开头标注"Ad:"应告知消费者该消息是广告，而"Sponsored"一词很可能告知消费者该消息由广告主赞助。其他缩写或图标可能足够，也可能不够，取决于它们是否以清晰且显著的方式呈现，以及消费者是否理解其含义从而不被误导。[26]示例 17误导相当一部分理性消费者即构成违反FTC Act。[27]

- **在重新发布时维持披露。**广告主应当采用

  最佳做法，以降低披露在空间受限的广告被他人转发时被删除的可能性。某些披露可以放在简短消息的开头。或者，如果披露放在消息末尾，原始消息可以留有足够的空白，以便在消息被他人带评论转发时披露不会丢失。

26. 可能需要实证证据来证明某些缩写或图标是有效的，至少在这些用法足够普及以使人们确信消费者能看到并理解其含义之前是如此。截至本文件发布之日，尚无此类证据。
27. 欺骗政策声明，第177页注20。

- **Disclosures on the click-through.** In some instances — *e.g.*, when a teaser ad does not actually identify the product being advertised, so the consumer must click through to learn its identity, or when the advertised product is sold only through the advertiser's own website and the consumer must click through in order to take any action — a space-constrained ad can direct consumers to a website for more information if a detailed disclosure is necessary but will not fit in the space-constrained ad. The full disclosure must then be clearly and conspicuously displayed on the website.
- **Providing required disclosures in interactive ads.** If consumers can purchase a product within an interactive ad, all required disclosures should be included in the ad itself.

2. Prominence

It is the advertiser's responsibility to draw attention to the required disclosures.

Display disclosures prominently so they are noticeable to consumers. The size, color, and graphics of the disclosure affect its prominence.

- **Size Matters.** Disclosures that are at least as large as the claim to which they relate are more likely to be effective.
- **Color Counts.** A disclosure in a color that contrasts with the background emphasizes the text of the disclosure and makes it more noticeable. Information in a color that blends in with the background of the ad is likely to be missed. Example 18
- **Graphics Help.** Although using graphics to display a disclosure is not required, they may make the disclosure more prominent.

Evaluate the size, color, and graphics of the disclosure in relation to other parts of the website, email or text message, or application.[28] The size of a disclosure should be compared to the type size of the claim and other text on the screen. If a claim uses a particular color or graphic treatment, the disclosure can be formatted the same way to help ensure that consumers who see the claim are also able to see the disclosure and relate it back to the claim

28. Websites may display differently, depending on the program and device used. Advertisers should consider different display options to ensure that qualifying information is displayed clearly and conspicuously. Evaluating the prominence of the disclosure in relation to the rest of the ad, as it may appear on various devices, helps ensure that consumers are able to view the disclosure.

- **点击跳转页面上的披露。**在某些情况下--例如，当预告式广告并未实际标明所广告的产品，因此消费者必须点击才能了解其身份，或者当所广告的产品仅通过广告主自己的网站销售且消费者必须点击才能采取任何行动时--如果详细披露是必要的但无法容纳在空间受限的广告中，空间受限的广告可以引导消费者前往网站获取更多信息。完整披露随后必须在网站上以清晰且醒目的方式展示。
- **在互动式广告中提供所需披露。**如果消费者可以购买产品，则所有所需披露都应包含在广告本身中。

2. 显著性

广告主有责任提请人们注意所需披露。

显著展示披露，使其对消费者显而易见。大小、披露内容的颜色和图形会影响其显著性。

- **大小很重要。**至少与其所对应的声称一样大的披露相关更有可能有效。
- **颜色很重要。**与背景形成对比的颜色的披露会强调披露的文字并使其更加醒目。与广告背景融为一体的颜色的信息很可能被忽略。示例 18
- **图形有帮助。**尽管不要求使用图形来展示披露，他们可以使披露更加醒目。

评估披露相对于其他部分的大小、颜色和图形

网站、电子邮件或短信或应用程序的部分。28披露的大小应与声称及屏幕上其他文字的字体大小相比较。如果声称使用特定颜色或图形处理，披露可以采用相同方式格式化，以帮助确保看到声称的消费者也能看到披露并将其与声称联系起来

28. 网站可能因所使用的程序和设备而显示不同。广告主应考虑不同的显示选项，以确保限定信息清晰且醒目地显示。评估披露相对于广告其余部分的醒目程度(因其可能在不同设备上呈现)，有助于确保消费者能够看到披露。

it modifies. In addition, the graphic treatment of the disclosure may be evaluated in relation to how graphics are used to convey other items in the ad.

Account for viewing on different devices. Most webpages viewable on desktop devices may also be viewable on smartphones. Therefore, unless a website defaults to a mobile-optimized (or similarly responsive) version,[29] advertisers should design the website so that any necessary disclosures are clear and conspicuous, regardless of the device on which they are displayed. Example 19 Among many other considerations, if a disclosure is too small to read on a mobile device and the text of the disclosure cannot be enlarged, it is not a clear and conspicuous disclosure. If a disclosure is presented in a long line of text that does not wrap around and fit on a screen, it is unlikely to be adequate.

Don't bury it. The prominence of the disclosure also may be affected by other factors. A disclosure that is buried in a long paragraph of unrelated text will not be effective. The unrelated text detracts from the message and makes it unlikely that a consumer would notice the disclosure or recognize its importance. Even though the unrelated information may be useful, advertisers must ensure that the disclosure is communicated effectively. For example, it is highly unlikely that consumers will read disclosures buried in "terms of use" and similar lengthy agreements. Even if such agreements may be sufficient for contractual or other purposes, disclosures that are necessary to prevent deception or unfairness should not be relegated to them. Similarly, simply because consumers click that they "agree" to a term or condition, does not make the disclosure clear and conspicuous.

A disclosure that addresses a subject other than the primary subject of the ad. Consumers who are trying to complete a task and obtain a specific product or service may not pay adequate attention to a disclosure that does not relate to the task at hand. This can be problematic if, for example, an advertiser is selling a product or service together with a negative option trial for a different product or service. In these circumstances, even a relatively prominent disclosure about the negative option trial could be missed by consumers because this additional product or service is not their primary focus. One way to increase the likelihood that consumers have actually read and understood a disclosure in such circumstances is to require consumers to affirmatively acknowledge having seen the disclosure by choosing between multiple answer options, none of which is preselected. Any such affirmative

29. Website operators can identify visitors who are using mobile devices to visit their websites and display a version of the site that has been designed or "optimized" to enable those consumers to view the site more easily.

其所修饰的。此外，披露的图形处理可以相对于广告中用于传达其他项目的图形使用方式进行评估。

考虑在不同设备上的查看效果。大多数可在台式机上查看的网页设备也可能在智能手机上查看。因此，除非网站默认采用移动优化(或类似响应式)版本，[29]广告主应设计网站，使任何必要的披露无论显示在何种设备上都清晰且醒目。示例 19除许多其他考虑因素外，如果披露在移动设备上太小而无法阅读且披露文本无法放大，则不是清晰且醒目的披露。如果披露以长行文本呈现且不换行以适应屏幕，则不太可能足够。

不要把它埋没。披露的显著性还可能受到其他因素的影响。埋没在长篇无关文本段落中的披露不会有效。无关文本会分散对信息的注意力，使消费者不太可能注意到披露或认识到其重要性。即使无关信息可能有用，广告主也必须确保披露得到有效传达。例如，消费者极不可能阅读埋没在"使用条款"和类似冗长协议中的披露。即使此类协议对于合同或其他目的可能足够，为防止欺骗或不公平所必需的披露也不应 relegated 到这些协议中。同样，仅仅因为消费者点击他们"同意"某项条款或条件，并不使披露变得清晰且醒目。

针对广告主要主题以外主题的披露。

试图完成某项任务并获取特定产品或服务的消费者可能不会充分注意与当前任务无关的披露。例如，如果广告主在销售某一产品或服务的同时，搭售另一产品或服务的负面选项试用，这就可能存在问题。在这些情况下，即使是关于负面选项试用的相对醒目的披露，也可能被消费者错过，因为这一附加产品或服务并非他们的主要关注点。在此类情况下，增加消费者实际阅读并理解披露的可能性的一种方法是，要求消费者通过在多个答案选项之间进行选择来肯定性地确认已看到披露，且这些选项均非预先选定。任何此类肯定性

29. 网站运营者可以识别使用移动设备访问其网站的访客，并显示经过设计或"优化"以使这些消费者能够更轻松地查看网站的版本。

acknowledgement should be displayed early in the decision-making process, *e.g.*, before the primary item is actually added to a shopping cart. Example 20

3. Distracting Factors in Ads

The clear and conspicuous analysis does not focus only on the disclosure itself. It also is important to consider the entire ad. Elements like graphics, sound, text, links that lead to other screens or sites, or "add to cart" buttons may result in consumers not noticing, reading, or listening to the disclosure. Example 21

- **Don't let other parts of an ad get in the way.** On television, moving visuals behind a text message make the text hard to read and may distract consumers' attention from the message. Using graphics online raises similar concerns: flashing images or animated graphics may reduce the prominence of a disclosure. Graphics on a webpage alone may not undermine the effectiveness of a disclosure. It is important, however, to consider all the elements in the ad, not just the text of the disclosure. Example 22

4. Repetition

It may be necessary to disclose information more than once to convey a non-deceptive message. Repeating a disclosure makes it more likely that a consumer will notice and understand it, and will also increase the likelihood that it will be seen by consumers who may be entering the website at different points. Still, the disclosure need not be repeated so often that consumers would ignore it or it would clutter the ad.

- **Repeat disclosures on lengthy sites and applications, as needed.** Consumers can access and navigate websites or applications in different ways. Many consumers may access a site through its home page, but others might enter in the middle, perhaps by linking to that page from a search engine or another website. Consumers also might not click on every page of the site and might not choose to scroll to the bottom of each page. And many may not read every word on every page of a website. As a result, advertisers should consider whether consumers who see only a portion of their ad are likely to be misled because they will either miss a necessary disclosure or not understand its relationship to the claim it modifies.
- **Repeat disclosures with repeated claims, as needed.** If claims requiring qualification are repeated throughout an ad, it may be necessary to repeat the

确认应在决策过程的早期显示，例如，在主要商品实际被添加到购物车之前。示例 20

3. 广告中的干扰因素

清晰且醒目的分析不仅仅关注披露本身。它还

重要的是要考虑整个广告。图形、声音、文字、导向其他屏幕或网站的链接，或"加入购物车"按钮等元素，可能导致消费者不会注意到、阅读或收听披露内容。示例 21

- **不要让广告的其他部分妨碍。**在电视上，移动画面

  位于文字信息背后的移动画面使文字难以阅读，并可能分散消费者对信息的注意力。在网上使用图形也会引发类似的担忧：闪烁的图像或动画图形可能降低披露的醒目程度。仅网页上的图形本身可能不会削弱披露的有效性。然而，重要的是要考虑广告中的所有元素，而不仅仅是披露的文字。示例 22

4. 重复

可能需要不止一次地披露信息，以传达非欺骗性的

信息。重复披露使消费者更有可能注意到并理解它，也将增加可能从不同入口进入网站的消费者看到它的可能性。尽管如此，披露不必重复得过于频繁，以致消费者会忽略它或使广告显得杂乱。

- **视需要在冗长的网站和应用程序上重复披露。**消费者

  可以以不同方式访问和浏览网站或应用程序。许多消费者可能通过网站主页访问，但其他人可能从中间进入，或许是通过从搜索引擎或其他网站链接到该页面。消费者也可能不会点击网站的每个页面，也可能不会选择滚动到每个页面的底部。而且许多人可能不会阅读网站每一页上的每一个字。因此，广告主应考虑仅看到其广告一部分的消费者是否可能被误导，因为他们要么会错过必要的披露，要么不理解该披露与其所修饰的声称之间的关系。

- **视需要在重复声明时重复披露。**如果声明需要

  如果资格说明在整则广告中反复出现，则可能有必要重复该

disclosure, too. In some situations, the disclosure itself is so integral to the claim that it must always accompany the claim to prevent deception. In other instances, a clearly-labeled hyperlink could be repeated on each page where the claim appears, so that the full disclosure would be placed on only one page of the site.

5. Multimedia Messages and Campaigns

Online ads may contain or consist of audio messages, videos, animated segments, or augmented reality experiences (interactive computer-generated experiences) with claims that require qualification. As with radio and television ads, the disclosure should accompany the claim. In evaluating whether disclosures in these multimedia portions of online ads are clear and conspicuous, advertisers should evaluate all of the factors discussed in this guidance document, as well as these special considerations:

- **For audio claims, use audio disclosures.** The disclosure should be in a volume and cadence sufficient for a reasonable consumer to hear and understand it. The volume of the disclosure can be evaluated in relation to the rest of the message, and in particular, the claim. Of course, consumers who do not have speakers, appropriate software, or devices with audio capabilities or who have their sound turned off will not hear either the claim or the disclosure.
- **For written claims, use written disclosures.** Disclosures triggered by a claim or other information in an ad's written text should be made in writing, and not be placed solely in an audio or video clip. Consumers who do not have speakers, appropriate software, or devices with audio capabilities or who have their sound turned off will not hear an audio disclosure; similarly, consumers might not be able to view a video clip on some devices or simply might not choose to watch it.
- **Display visual disclosures for a sufficient duration.** Visual disclosures presented in video clips or other dynamic portions of online ads should appear for a duration sufficient for consumers to notice, read, and understand them. As with brief video superscripts in television ads, fleeting online disclosures are not likely to be effective.

Advertisers should also recognize that consumers today may be viewing their messages through multiple media (*e.g.*, watching television, surfing the web on a computer, viewing space constrained messages on a smartphone, etc.). This multiple media access does not

也需要披露。在某些情况下，披露本身对声称如此不可或缺，以致它必须始终伴随声称以防止欺骗。在其他情况下，可以在声称出现的每个页面上重复一个清晰标注的超链接，这样完整的披露将只放置在网站的一个页面上。

5. 多媒体消息与活动

在线广告可能包含或由音频信息、视频、动画片段或

增强现实体验(交互式计算机生成体验)组成，其中含有需要限定的声称。与广播和电视广告一样，披露应伴随声称。在评估在线广告这些多媒体部分的披露是否清晰且醒目时，广告主应评估本指南文件中讨论的所有因素，以及以下特别考虑事项：

- **对于音频声明，使用音频披露。**披露应以足够的音量

  和节奏应足以让合理消费者听到并理解。披露的音量可以相对于信息的其余部分、特别是声称来评估。当然，没有扬声器、适当软件或具有音频功能的设备的消费者，或关闭了声音的消费者，将既听不到声称也听不到披露。

- **对于书面声明，使用书面披露。**由声明触发的披露

  或广告书面文本中的其他信息应以书面形式作出，而不应仅放置在音频或视频片段中。没有扬声器、适当软件或具有音频功能的设备的消费者，或关闭了声音的消费者，将听不到音频披露；同样，消费者可能无法在某些设备上观看视频片段，或者只是可能不选择观看它。

- **以足够的持续时间展示视觉披露。**视觉披露

  在视频片段或在线广告其他动态部分中呈现的视觉披露，应持续足够长的时间，以便消费者注意到、阅读并理解它们。与电视广告中短暂的视频上标一样，转瞬即逝的在线披露不太可能有效。

广告主还应认识到，当今的消费者可能通过多种媒体

观看其信息(例如，看电视、在电脑上网、在智能手机上查看空间受限的信息等)。这种多媒体的访问方式并不

alter the requirement that required disclosures be made clearly and conspicuously in each advertisement that would require a disclosure if viewed in isolation.

6. Understandable Language

For disclosures to be effective, consumers must be able to understand them. Advertisers should use clear language and syntax and avoid legalese or technical jargon. Disclosures should be as simple and straightforward as possible. Icons and abbreviations are not adequate to prevent a claim from being misleading if a significant minority of consumers do not understand their meaning.[30] Incorporating extraneous material into the disclosure also may diminish communication of the message to consumers.

IV. Conclusion

Although online commerce (including mobile and social media marketing) is booming, deception can dampen consumer confidence in the online marketplace. To ensure that products and services are described truthfully online and that consumers get what they pay for, the FTC will continue to enforce its consumer protection laws. Most of the general principles of advertising law apply to online ads, but new issues arise almost as fast as technology develops. The FTC will continue to evaluate online advertising, using traditional criteria, while recognizing the challenges that may be presented by future innovation. Businesses, as well, should consider these criteria when developing online ads and ensuring they comply with the law.

30. *See supra* note 23.

改变以下要求：在每一个如果单独观看就需要披露的广告中，所需披露必须清晰且醒目地作出。

6. 通俗易懂的语言

披露要有效，消费者必须能够理解。

广告主应使用清晰的语言和句法，避免法律术语或技术行话。披露应尽可能简单明了。如果相当一部分少数消费者不理解图标和缩写的含义，则图标和缩写不足以防止声称具有误导性。[30]在披露中加入无关材料也可能削弱向消费者传达信息的效果。

IV. **结论**尽管在线商务(包括移动和社交媒体营销)蓬勃发展，

欺骗会削弱消费者对在线市场的信心。为确保产品和服务在网上得到真实描述，并确保消费者得到他们所支付的东西，FTC 将继续执行其消费者保护法律。广告法的大多数一般原则适用于在线广告，但新问题几乎与技术发展一样快地出现。FTC 将继续使用传统标准评估在线广告，同时认识到未来创新可能带来的挑战。企业也应在开发在线广告并确保其遵守法律时考虑这些标准。

30. 参见上文注释 23。

Appendix: Examples

附录：示例

Example 1

The disclosure “imitation” needs to accompany the triggering term “pearl,” so that consumers are not misled about the type of pearls being sold. The disclosure would not be as effective if it was separated from the word “pearl” or placed on a different page. The FTC’s Guides for the Jewelry, Precious Metals, and Pewter Industries, 16 C.F.R. § 23.19, recognize this and advise that the disclosure “imitation” immediately precede the word pearl. In this situation, there is no reason to evaluate proximity differently in online ads than other types of ads.



Example 1

披露“仿制”需要伴随触发词“珍珠”，以便

消费者不会对所售珍珠的类型产生误解。如果披露与“珍珠”一词分离或放置在不同页面上，其效果就不会那么好。FTC 的《珠宝、贵金属和锡器行业指南》，16 C.F.R.23.19，认识到这一点，并建议披露“仿制”紧接在珍珠一词之前。在这种情况下，没有理由以不同于其他类型广告的方式评估在线广告中的邻近性。



Example 2

This ad must disclose that the diamond weights are not exact and that a 3/4 carat diamond may weigh between .72 and .78 carats. Here, though, because of the blank space between the textual description of the product and the disclosure, even consumers who scroll down to the end of the text (see second screen) will probably think that there is no more information to view and are likely to miss the disclosure.





Example 2

该广告必须披露钻石重量并非精确，且 3/4 克拉钻石的重量可能在 0.72 至 0.78 克拉之间。然而，在此处，由于产品文字描述与披露之间的空白，即使滚动到文本末尾的消费者(见第二屏)也可能认为没有更多信息可查看，并很可能错过披露。

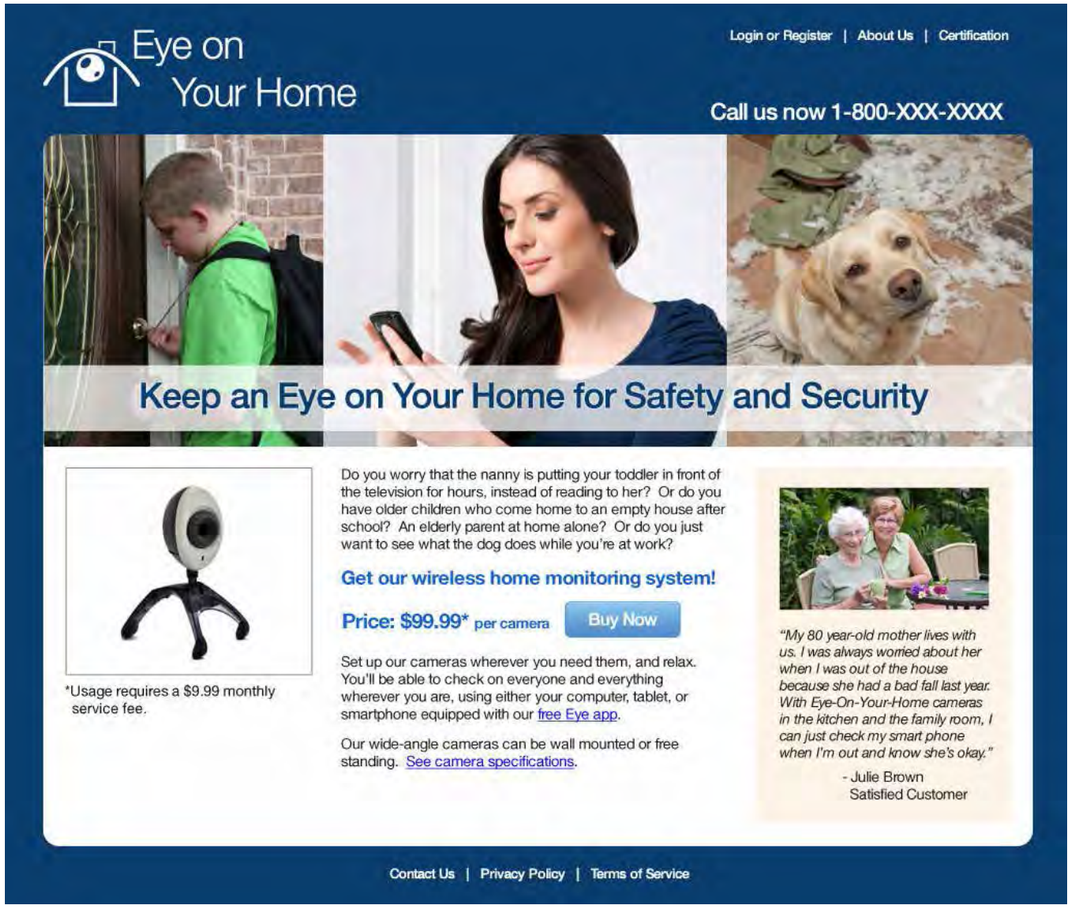




Example 3

Advertisers should take into consideration the variety of devices and platforms that consumers can use to view their ads and ensure that necessary disclosures are clear and conspicuous on any device or platform that is capable of displaying their message.

In this example, consumers might not expect a monthly service fee for cameras used to monitor their homes over the Internet, so a disclosure is necessary to prevent the ad from being misleading. Placing the disclosure in a different column than the camera price it qualifies, as in this example, rather than directly under the price information, makes it less likely that consumers viewing this webpage on a desktop computer would notice the disclosure here.



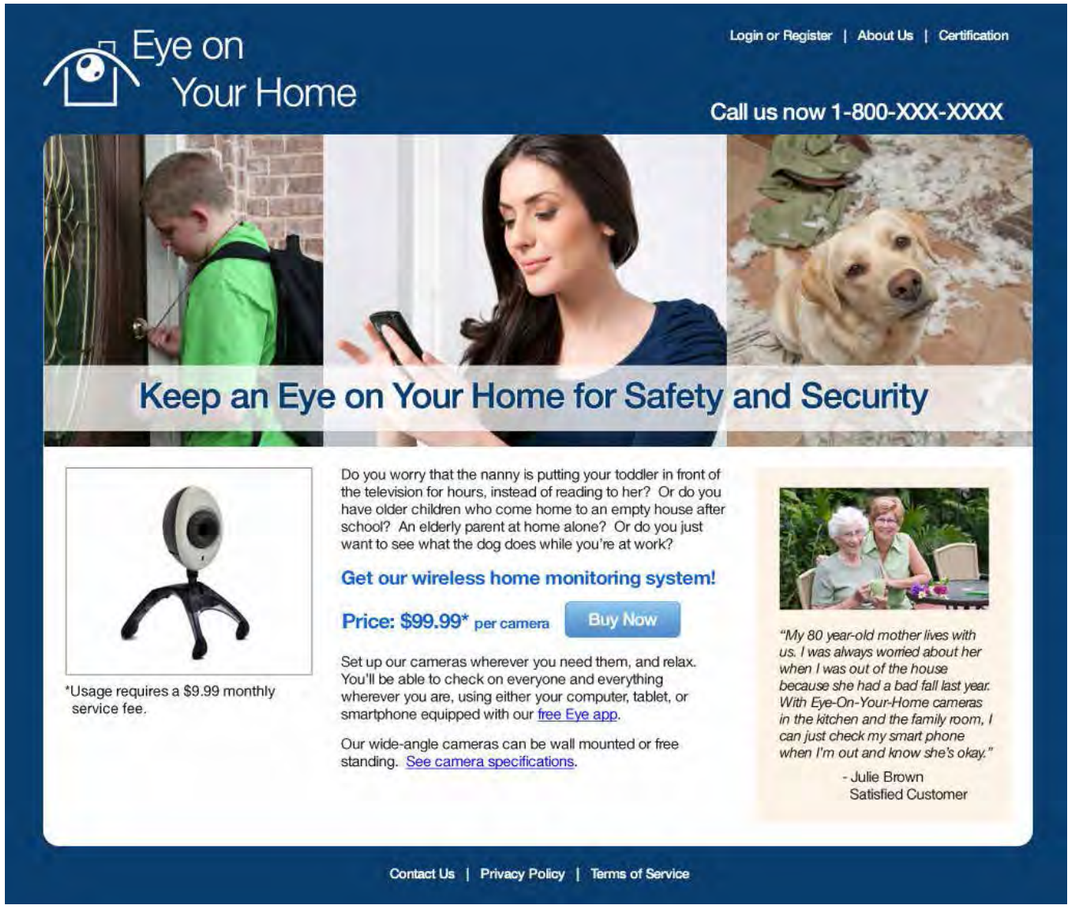
Webpage on a desktop

(continued on next page)

Example 3

广告主应考虑消费者可用于查看其广告的各种设备和平台，
消费者可以用来查看其广告，并确保必要披露在任何能够显示其信息的设备或平台上清晰且醒目。

在此示例中，消费者可能不会预期用于通过互联网监控其住宅的摄像头会有月度服务费，
因此需要披露以防止广告具有误导性。如本示例所示，将披露放置在与它所限定的摄像头价格不同的栏中，
而不是直接放在价格信息下方，使得在台式电脑上查看此网页的消费者不太可能注意到此处的披露。



桌面上的网页

(续下页)

Example 3 (cont'd)

Consumers viewing this webpage on a smartphone or other device with a small screen, however, would likely find it too small to read (see mobile screen without zooming, below), requiring them to zoom in on the part or parts that they wish to read.

They are likely to zoom in on the center column (see zoomed-in mobile screen, below), which contains the main information on the page and might not scroll left to see the disclosure in the left column. As a result, consumers who use a smart phone to view this website, which has not been optimized for mobile devices, might easily miss the monthly monitoring fee disclosure.



Mobile screen (no zooming)



Mobile screen (zoomed-in)

例3(续)

在智能手机或其他小屏幕设备上查看此网页的消费者，
然而，可能会发现它太小而无法阅读(见下方未缩放的移动屏幕)，需要他们放大想要阅读的部分。

他们可能会放大中间栏(见下方放大的移动屏幕),
其中包含页面上的主要信息，并且可能不会向左滚动以查看左栏中的披露。因此，使用智能手机查看这个未针对移动设备优化的网站的消费者，可能很容易错过每月监控费的披露。



移动屏幕(不缩放)



移动屏幕(放大)

A-5

Example 4

Hyperlinks should not be used to communicate disclosures that are an integral part of a claim or inseparable from it, including important health and safety information. In this example, the hyperlink “Important Health Information” leads to a disclosure, “Frost-a-tron may not keep perishable food items cold enough to prevent the growth of bacteria when the temperature is over 80ºF, such as in a hot car. Use in these conditions could lead to food-borne illness.” The fact that the cooler might not keep food cold enough to prevent the growth of dangerous bacteria should not be hidden behind a hyperlink, even one labeled “Important Health Information.” This is especially true when the cooler is promoted for keeping perishable food fresh and cold on road trips. Moreover, any disclosure that is integral to the primary claim should be immediately adjacent to that claim.



Example 4

不应使用超链接来传达作为广告不可分割组成部分的披露

声称或与之不可分割，包括重要的健康和安全信息。在此示例中，超链接“Important Health Information”指向一项披露：“Frost-a-tron 在温度超过 80oF 时(例如在炎热的汽车中)可能无法将易腐食品保持足够冷以防止细菌生长。在这些条件下使用可能导致食源性疾病。”冷藏箱可能无法将食物保持足够冷以防止危险细菌生长这一事实，不应隐藏在超链接之后，即使该链接标有“Important Health Information”。当冷藏箱被宣传为可在公路旅行中保持易腐食品新鲜和冷藏时，尤其如此。此外，任何对主要声称不可或缺的披露都应紧邻该声称。



Example 5

Although hyperlinks generally should not be used to disclose information integral to the claim — such as the existence and nature of additional fees consumers might not expect — a hyperlink can be used to disclose the details if they are too complex to describe next to the basic price information. Here the hyperlink leads to the disclosure, “Monitoring plan price: $15.95 per month with one camera, $9.95 per month/per camera with two cameras, $7.95 per month/ per camera with three or more cameras. Save 10% with a 12-month commitment, 20% with a 24-month commitment. Additional 5% discount for seniors and families of active duty military personnel.”

This information about the monitoring plan’s prices is likely is too complex to appear adjacent to the price per camera claim, and thus can be placed behind a properly labeled hyperlink. The statement “Service plan required” and the hyperlink are next to the price per camera; and together, the statement and the hyperlink’s label communicate to consumers the specific nature and importance of the information to which the hyperlink leads.



Moreover, all cost information, including any such fees, should be presented clearly and conspicuously to consumers prior to purchase.

Example 5

尽管超链接通常不应用于披露构成.....组成部分的信息

声称--例如消费者可能意想不到的额外费用的存在和性质--如果这些细节过于复杂，无法在基本价格信息旁边描述，则可以使用超链接来披露。这里的超链接指向以下披露：“监控计划价格：一台摄像头每月15.95美元，两台摄像头每月每台9.95美元，三台或更多摄像头每月每台7.95美元。承诺12个月可节省10%，承诺24个月可节省20%。现役军人及军属额外享受5%折扣。”

关于监控计划价格的这一信息可能过于复杂，不适合出现在

每台摄像机价格声明的旁边，因此可以置于标注适当的超链接之后。“需要服务计划”的声明和超链接位于每台摄像机价格旁边；两者结合，向消费者传达了超链接所指向信息的具体性质和重要性。



此外，所有费用信息，包括任何此类费用，都应清晰且醒目地呈现显著地向消费者展示，且须在购买前。

Example 6

Because the advertiser's assertion that "Satisfaction is guaranteed" implies that dissatisfied consumers can get a full refund of the purchase price, the advertiser should clearly and conspicuously disclose any restocking fees.

The hyperlink "Restocking fee applies to all returns." leads to the disclosure, "If you return the Frost-a-tron within 30 days there is a restocking fee of $19.95. After 30 days and before 90 days, the restocking fee is $29.95. After 90 days, the restocking fee is $49.95. Shipping and handling fees are non-refundable. No COD on returns." The details in this return policy are likely too complex to disclose next to the guarantee. The label of the hyperlink adequately conveys the nature and relevance of the information to which it leads.



Example 6

因为广告商"满意保证"的断言意味着

不满意的消费者可以获得购买价格的全额退款，广告商应清晰且醒目地披露任何补货费。

超链接"所有退货均适用补货费"指向以下披露内容："如果您在30天内退回

Frost-a-tron，需支付19.95美元的补货费。超过30天且在90天以内，补货费为29.95美元。超过90天，补货费为49.95美元。运费和手续费不予退还。退货不接受货到付款。"该退货政策中的细节可能过于复杂，不适合在保证声明旁边披露。超链接的标签充分传达了其所指向信息的性质和相关性。



Example 7

This ad must disclose that the diamond weights are not exact and that a 3/4 carat diamond may weigh between .72 and .78 carats. Even if the hyperlink “3/4 Ct.” clicks through to a page that lists the weight range for every size diamond sold by the advertiser, this disclosure is not clear and conspicuous.

Underlining “3/4 Ct.” may or may not indicate to consumers that this is a hyperlink. Even if consumers recognize it as a hyperlink, the label here does not communicate the relevance of the information to which that link leads — in this case, to a disclosure that diamond weights are not exact, that the diamonds sold by this merchant may vary in weight, and that the advertised ¾ carat diamonds might each actually weight less than 0.75 carats. Consumers might expect to find additional general information about “carats” or diamond weights generally, but not necessarily information that qualifies the claim that they are purchasing diamonds of a specific weight.



Example 7

该广告必须披露钻石重量并非精确，且 3/4 克拉钻石重量可能在0.72至0.78克拉之间。即使超链接“3/4 Ct.”点击后跳转到一个列出广告商所售每种尺寸钻石重量范围的页面，该披露也不属于清晰且醒目。

给“3/4 Ct.”加下划线可能表明也可能不表明这是超链接。即使如果消费者将其识别为超链接，此处的标签并未传达该链接所指向信息的相关性--在本例中，即披露钻石重量并非精确值、该商家出售的钻石重量可能存在差异、以及广告中所称的3⁄4克拉钻石每颗实际重量可能低于0.75克拉。消费者可能期望找到关于“克拉”或钻石重量的一般性补充信息，但不一定会期望找到对“其购买的钻石具有特定重量”这一声称进行限定的信息。



Example 8

Because the advertiser's assertion that "Satisfaction is guaranteed" implies that dissatisfied consumers can get a full refund of the purchase price, the advertiser should disclose any restocking fees. The hyperlink "Disclaimer" leads to the disclosure, "If you return the Frost-a-tron within 30 days there is a restocking fee of $19.95. After 30 days and before 90 days, the restocking fee is $29.95. After 90 days, the restocking fee is $49.95. Shipping and handling fees are non-refundable. No COD on returns."

The hyperlink label "Disclaimer" does not adequately convey that the information to which this hyperlink leads concerns significant restocking fees applied to all product returns; nor would hyperlinks labeled "Disclosure," "Details," or even "Return Information."



In contrast, the hyperlink in Example 6, "Restocking fee applies to all returns," does convey the nature and importance of the information in question.

Example 8

因为广告商"满意保证"的断言意味着

不满意的消费者可以获得购买价格的全额退款，广告商也应披露任何补货费。超链接"免责声明"指向以下披露内容："如果您在30天内退回Frost-a-tron，需支付19.95美元的补货费。超过30天且在90天以内，补货费为29.95美元。超过90天，补货费为49.95美元。运费和手续费不予退还。退货不接受货到付款。"

超链接标签"免责声明"未能充分传达该超链接所指向的信息

涉及适用于所有产品退货的高额补货费；标注为"披露"、"详情"甚至"退货信息"的超链接同样不能充分传达。



相比之下，示例6中的超链接"所有退货均适用补货费"则传达所涉信息的性质和重要性。

Example 9

This ad must disclose that the diamond weights are not exact and that a 3/4 carat diamond may weigh between .72 and .78 carats. Even if the hyperlink clicks through to a page that lists the weight range for every size diamond sold by the advertiser, this disclosure is not clear and conspicuous because the hyperlink's label does not indicate the importance of the information to which the link leads so that consumers understand why they should click on it. Although the label does indicate that more information about the earrings is available if the consumer clicks through, it does not indicate that it is related to the weight of the diamonds being advertised. Consumers could expect, for example, that this link takes them to shipping and ordering information, rather than information about the diamond weights.



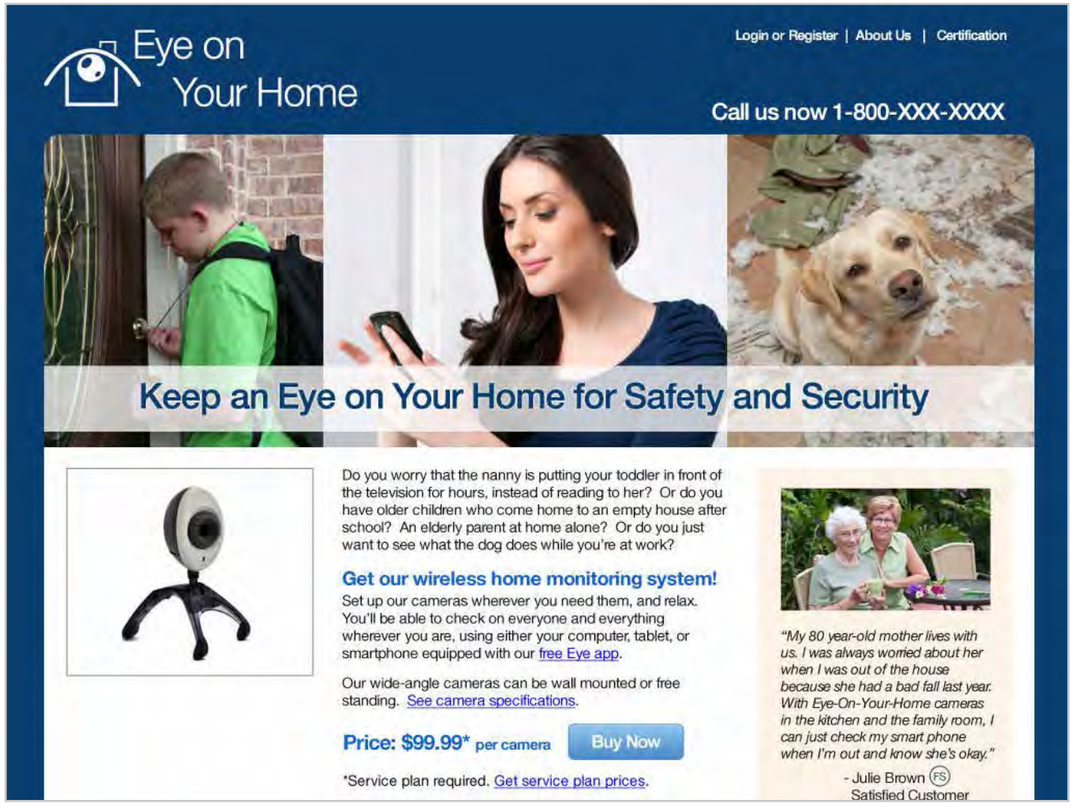
Example 9

该广告必须披露钻石重量并非精确，且 3/4 克拉钻石重量可能在0.72至0.78克拉之间。即使该超链接点击后跳转到一个列出广告商所售每种尺寸钻石重量范围的页面，该披露也不是清晰且醒目的，因为超链接的标签并未表明该链接所指向信息的重要性，使消费者理解为何应当点击它。尽管该标签确实表明消费者点击后可获得关于耳环的更多信息，但它并未表明该信息与广告中所称的钻石重量有关。例如，消费者可能以为该链接会将其带到配送和订购信息，而非关于钻石重量的信息。



Example 10

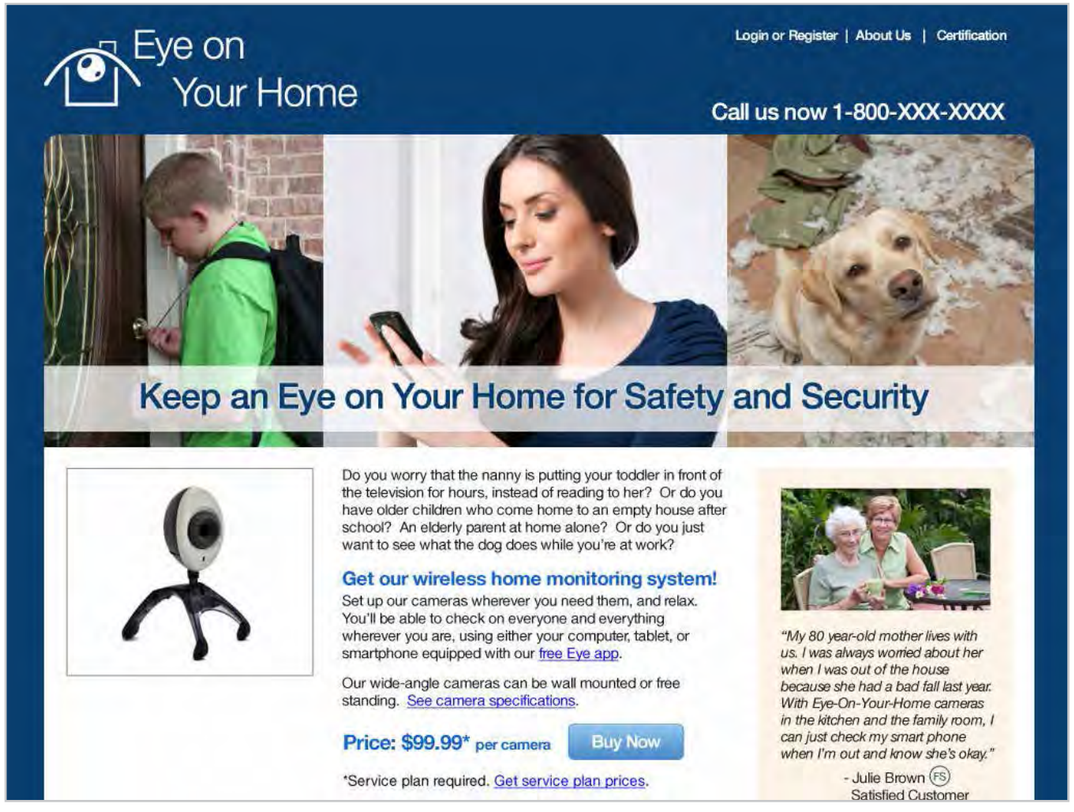
Julie Brown's endorsement is followed by a symbol consisting of the letters "FS" in a circle that is intended to disclose that she received a free sample (in this case, a free camera) in exchange for providing her endorsement.



Icons, abbreviations, and symbols such as this are not adequate to prevent a claim from being misleading if they do not provide sufficient clues about why a claim is qualified or about the nature of the disclosure, or if consumers simply do not understand their meaning. The fact that the icon or symbol also functions as a hyperlink to an explanation of its meaning would not be sufficient to make the disclosure clear and conspicuous.

Example 10

Julie Brown的背书之后跟随一个符号，由圆圈中的字母"FS"组成，旨在披露她收到了一份免费样品(在此例中为一台免费摄像机)以换取提供其背书。



像这样的图标、缩写和符号不足以阻止一项声明具有误导性，如果它们未能提供充分线索说明声明为何附带条件或披露的性质，或者如果消费者根本不理解其含义。即使该图标或符号同时作为指向其含义解释的超链接，也不足以使披露达到清晰且醒目。

Example 11

Hyperlinks should be adjacent to the claims to which they relate, in order to increase the likelihood that consumers will see them and understand their relevance.

In this example, the hyperlink about restocking fees is right next to the claim that triggers the need for this qualifying information — that satisfaction is guaranteed.



Example 11

超链接应与其所关联的声明相邻，以增强消费者看到它们并理解其相关性的可能性。

在此示例中，关于补货费的超链接紧邻触发该披露的声明对这一限定信息的需要--满意度是有保证的。



Example 12

Hyperlinks should be adjacent to the claim to which they relate, in order to increase the likelihood that consumers will see them and understand their relevance.

In this example, the substantial gap between the end of the webpage's main text and the hyperlink makes it unlikely that consumers will notice the hyperlink. In addition, as noted in Example 9, the hyperlink is inadequately labeled.





Example 12

超链接应与其所关联的声明相邻，以增强
消费者看到它们并理解其相关性的可能性。

在此示例中，网页正文末尾与超链接之间的显著间距
使消费者不太可能注意到该超链接。此外，如示例9所述，该超链接的标注不充分。

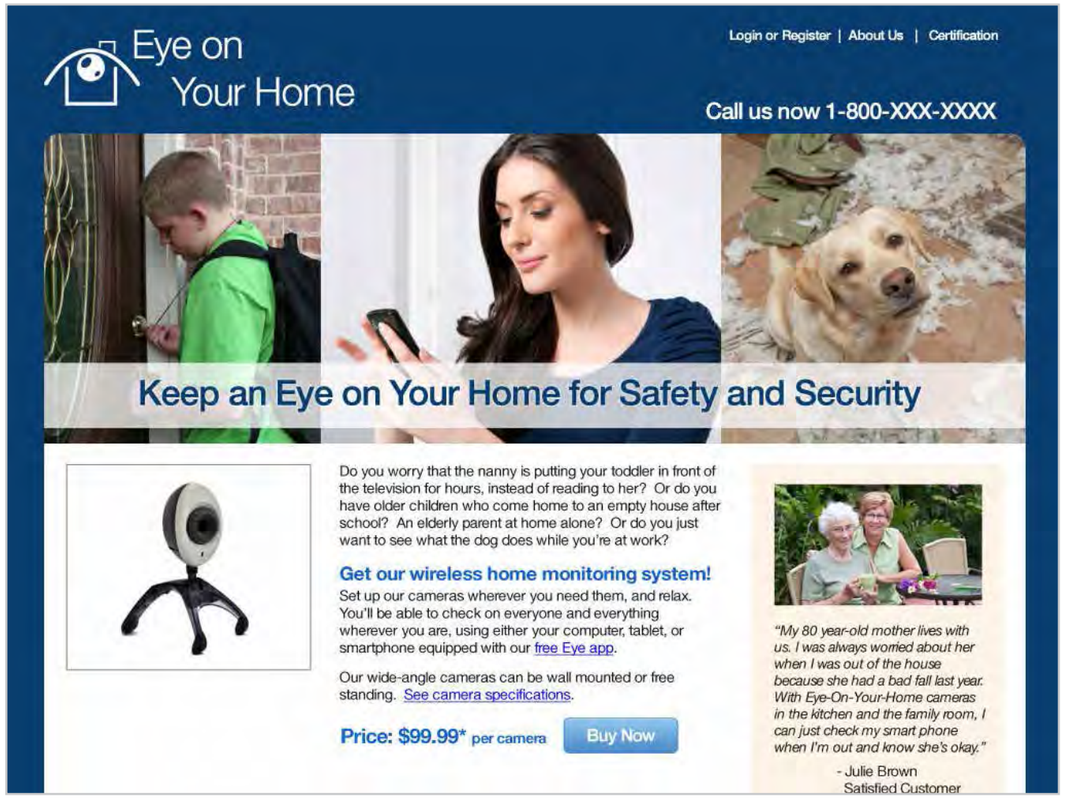




Example 13

If the purchase or use of the advertised product entails significant additional charges beyond the basic price of the product and consumers reasonably might not expect those charges, they should be disclosed prominently on the same page as, and immediately adjacent to, statements of the product's basic cost.

In this example, disclosure of the existence and amount of a monthly monitoring fee only on the check-out page (see next page) would likely be deemed insufficiently clear and conspicuous; this fee should be clearly stated next to the price of the cameras on the preceding website pages that provide that price information.

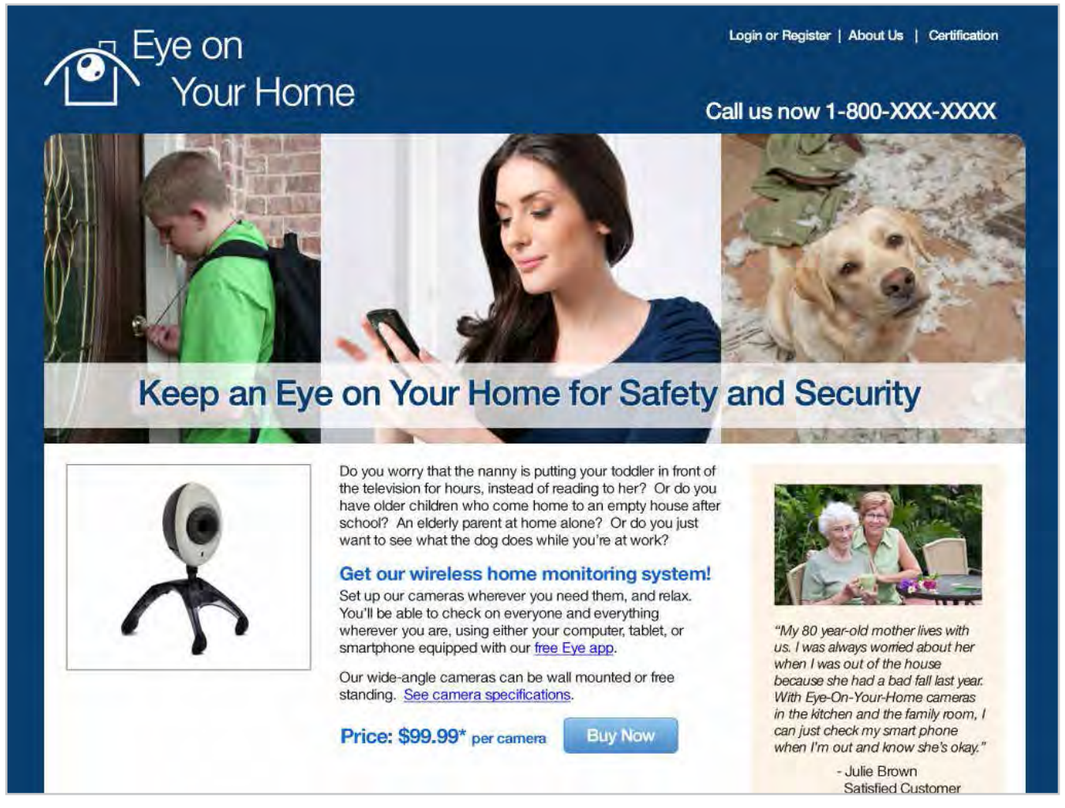


(continue on next page)

Example 13

如果购买或使用所宣传的产品需要支付基本价格之外的显著额外费用且消费者合理情况下可能不会预期这些费用，则应在产品基本费用声明所在的同一页面上、紧邻该声明处以醒目方式披露。

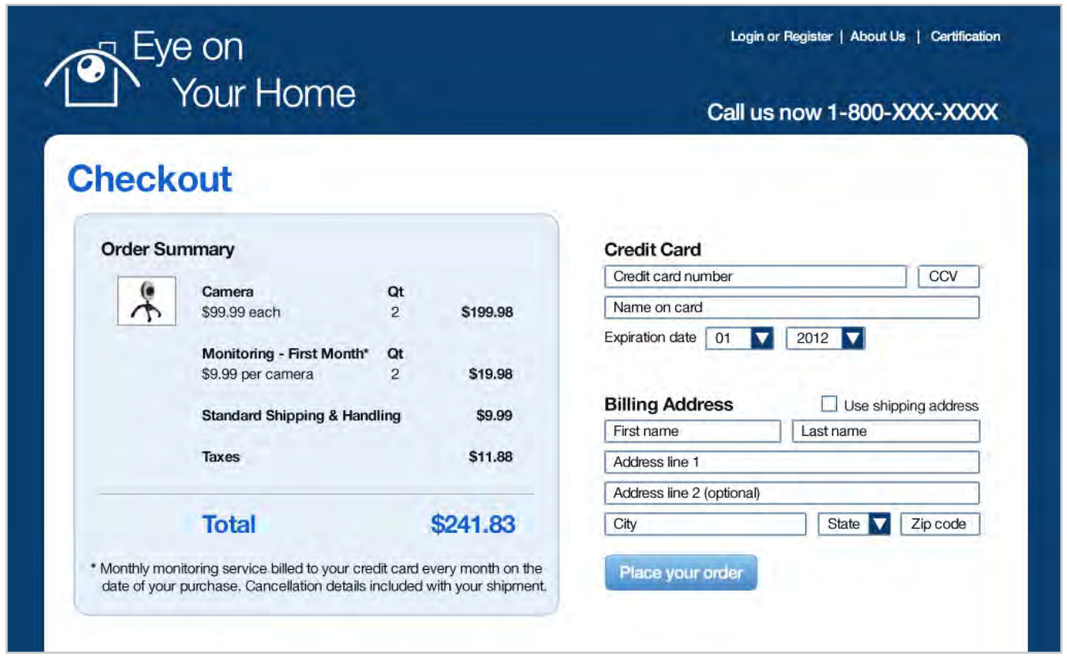
在此示例中，仅在结账页面(见下页)披露月度监控费的存在和金额很可能被认定为不够清晰且醒目；该费用应在之前提供价格信息的网站页面上、紧邻摄像机价格处明确说明。



(续下页)

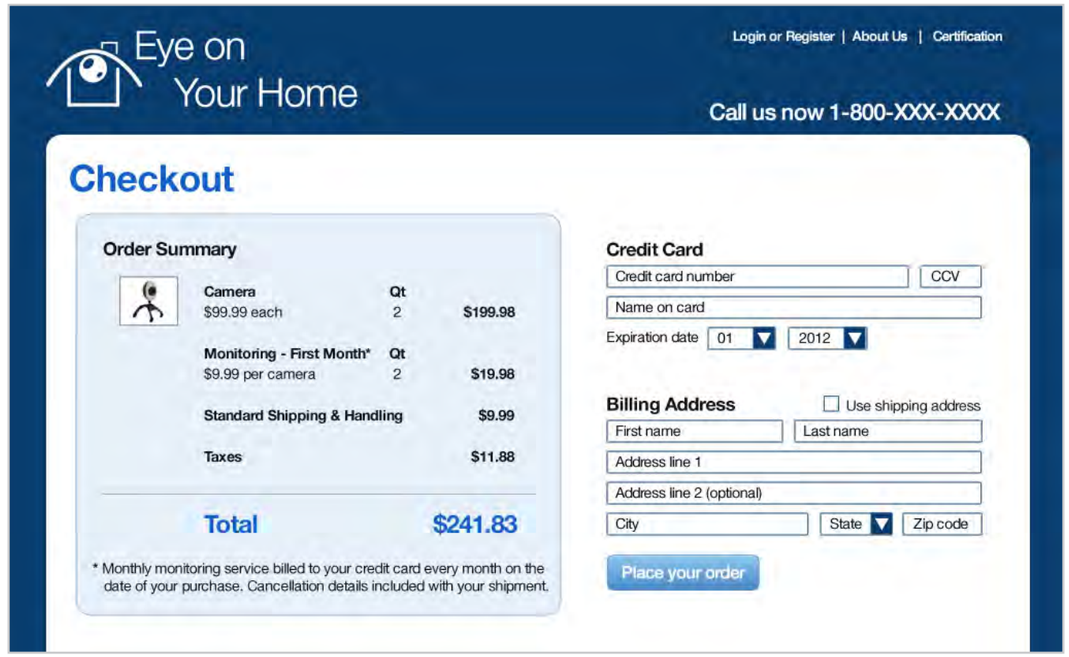
Example 13 (continued)

However, disclosure on the check-out page of the sales tax the consumer owes on this purchase, as well as reasonable shipping and handling charges, would not be problematic, because consumers expect these charges.



例13(续)

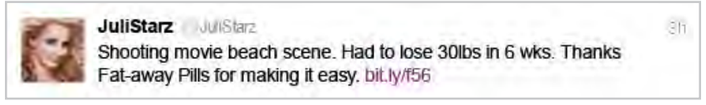
然而，在结账页面上披露消费者本次购买所欠的销售税
以及合理的运费和手续费则不会有问题，因为消费者预期这些费用。



Example 14

This space-constrained message requires two disclosures: (1) that JuliStarz is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances, which is much less than the 30 pounds Juli says she lost in 6 weeks. See Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR Part 255.

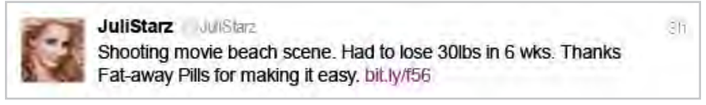
Even if the link in the message led directly to those disclosures on the Fat-away website, those disclosures would not be adequate if consumers could purchase Fat-away at a brick and mortar store or from a third-party online retailer (a retailer that is not affiliated with the advertiser). In either case, they might not click through to the Fat-away website, and thus would not see these disclosures.



Example 14

这一空间受限的信息需要两项披露：(1) JuliStarz是付费Fat-away的背书人；以及(2)消费者使用Fat-away在所述情形下通常可预期减掉的体重，这远低于Juli所称她在6周内减掉的30磅。参见《广告中使用背书和证言的指南》，16 CFR Part 255。

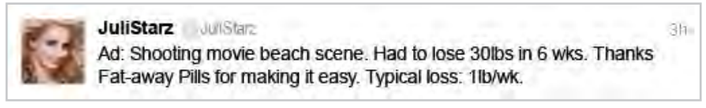
即使消息中的链接直接指向Fat-away网站上的那些披露，如果消费者可以在实体店或从第三方在线零售商(与广告主无关联的零售商)处购买Fat-away，那些披露也不充分。在任一情况下，他们可能不会点击进入Fat-away网站，因而不会看到这些披露。



A-17

Example 15

In some cases, required disclosures can easily be incorporated into a space-constrained ad. This space-constrained message requires two disclosures: (1) that JuliStarz is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances, which is much less than the 30 pounds Juli says she lost in 6 weeks. This space-constrained ad signals that Juli is a paid endorser by beginning with “Ad:” which only takes up four characters. It also succinctly discloses, “Typical loss: 1lb/wk.”

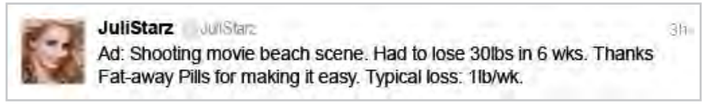


Example 15

在某些情况下，所需披露可以很容易地纳入空间受限的

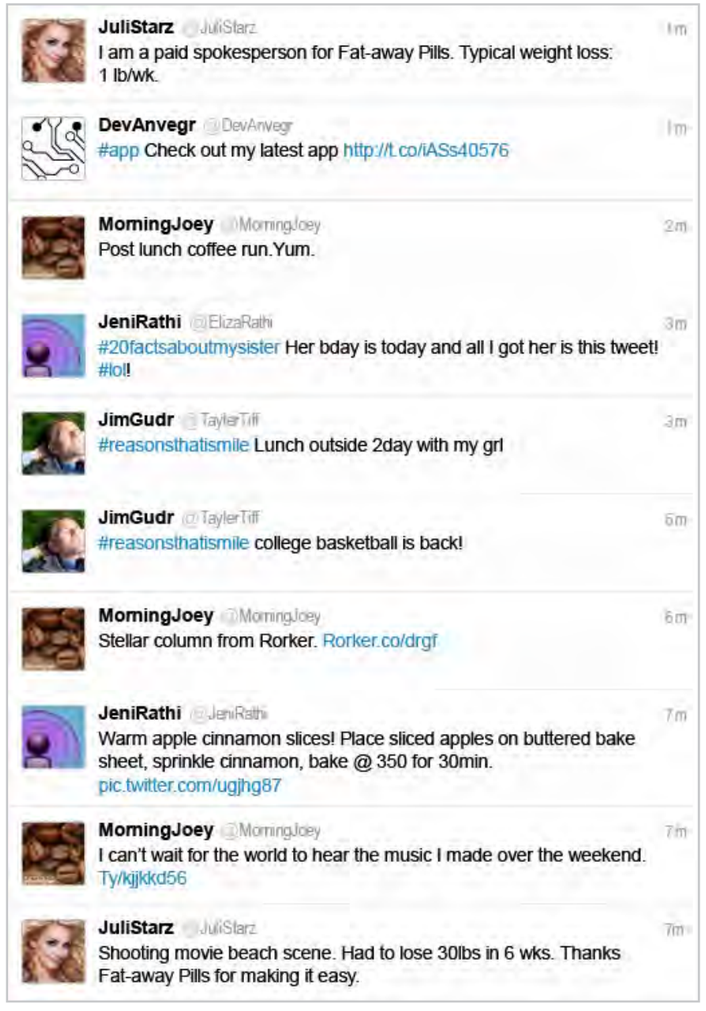
广告中。此空间受限的消息需要两项披露：(1) JuliStarz是Fat-away的付费背书人；以及(2)消费者使用Fat-away在所述情形下通常可预期减掉的体重，这远低于Juli所称她在6周内减掉的30磅。此空间受限的广告以“Ad:”开头，仅占用四个字符，表明Juli是付费背书人。它还简要披露：“Typical

损失：每周1磅。



Example 16

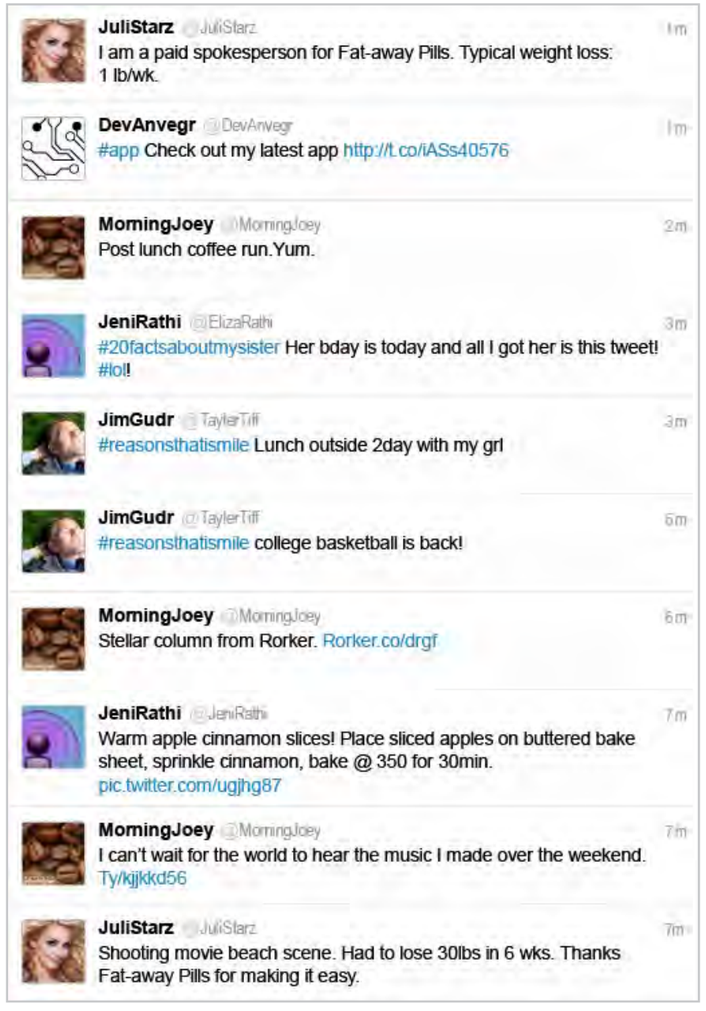
The initial space-constrained message requires two disclosures: (1) that Juli is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances, which is much less than the 30 pounds Juli says she lost in 6 weeks. Putting that information in a subsequent message is problematic, because unrelated messages may arrive in the interim. By the time Juli's disclosures arrive, consumers might no longer be reading these messages, or they simply might not realize that those disclosures pertain to the original message.



Example 16

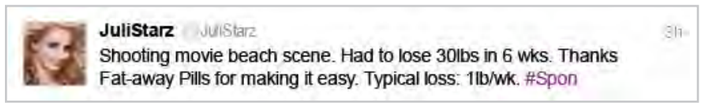
初始的空间受限消息需要两项披露：(1) Juli是付费

Fat-away的代言人；以及(2)使用Fat-away的消费者在所述情形下通常可预期减掉的体重，该数值远低于Juli所称她在6周内减掉的30磅。将该信息放在后续消息中是有问题的，因为在此期间可能收到不相关的消息。当Juli的披露信息到达时，消费者可能已不再阅读这些消息，或者他们根本没有意识到那些披露信息与最初的消息有关。

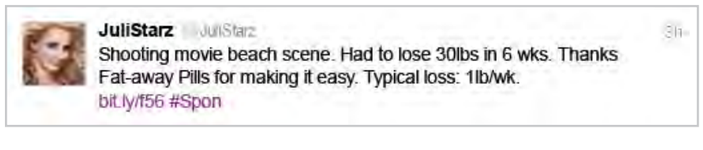


Example 17

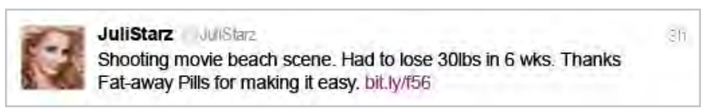
These space-constrained messages all require the following disclosures: (1) that JuliStarz is a paid endorser for Fat-away; and (2) the amount of weight that consumers who use Fat-away can generally expect to lose in the depicted circumstances which is much less than the 30 pounds Juli says she lost in 6 weeks. Although each of these messages includes an abbreviation or link that leads to disclosure of the relevant information, each of them may be inadequate to prevent consumers from being misled.



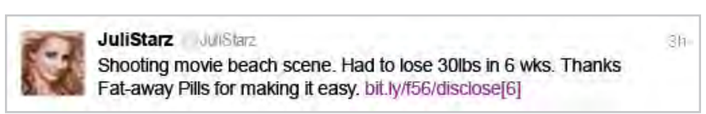
Consumers might not understand that "#spon" means that the message was sponsored by an advertiser. If a significant proportion of reasonable viewers would not, then the ad would be deceptive.



Putting #spon directly after the link might confuse consumers and make it less likely that they would understand that it is a disclosure.



Consumers viewing "bit.ly/f56," which links to the advertiser's official website for the product, might not realize the nature and relevance of the information that could be found by clicking on it. Moreover, if consumers can buy Fat-away in brick and mortar stores, at third-party online retailers, or in any way other than by clicking on the link, consumers who do not click on the link would be misled.

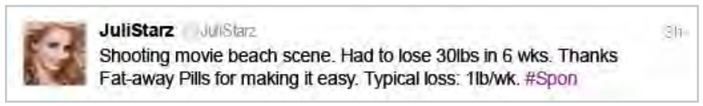


Similarly, consumers viewing "bit.ly/f56/disclose[6]," which leads to a third-party website with disclosures, would not necessarily understand what they will find at that website, or why they should click on that link.

Example 17

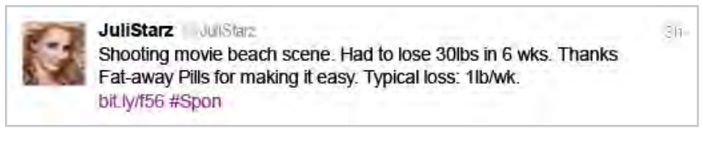
这些受空间限制的信息均要求作出以下披露：(1)

JuliStarz是Fat-away的付费背书人；以及(2)消费者使用Fat-away在所述情形下通常可预期减掉的体重，这远低于Juli所称她在6周内减掉的30磅。尽管这些消息中的每一条都包含一个缩写或链接，指向相关信息的披露，但每一条都可能不足以防止消费者被误导。



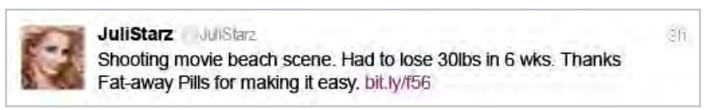
消费者可能不理解"#spon"意味着该消息是赞助的

由广告主。如果相当比例的合理观看者不会，那么该广告就具有欺骗性。



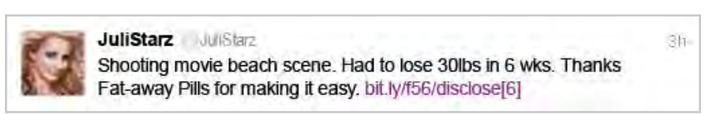
将#spon直接放在链接之后可能会使消费者困惑，并降低以下可能性：

他们会理解这是一项披露。



观看"bit.ly/f56"的消费者，该链接指向广告主的官方产品网站，

可能不会意识到通过点击该链接可以找到的信息的性质和相关性。此外，如果消费者可以在实体店、第三方在线零售商处或以点击链接以外的任何方式购买Fat-away，不点击链接的消费者就会被误导。



同样，观看"bit.ly/f56/disclose[6]"的消费者，该链接指向一个带有披露的第三方网站，

不一定能理解他们会在该网站上找到什么，或者为什么应该点击该链接。

Example 18

Both disclosures in this ad appear in text that contrasts poorly with the background of the page and they therefore are both easy to miss. Because the disclosures are not prominent, they are not clear and conspicuous.



Example 18

此广告中的两项披露均出现在与页面背景对比度差的文字中，因此两者都容易被忽略。由于披露不显著，它们不清晰且醒目。

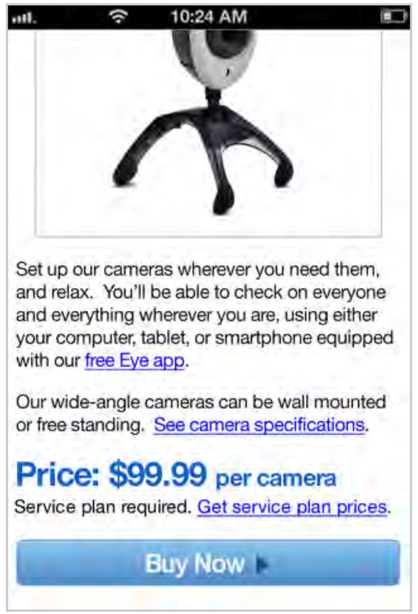


Example 19

Most webpages viewable on desktop devices may also be viewable on smartphones, but, as discussed earlier, consumers may miss disclosures on mobile devices because of the need to zoom in on text and to scroll horizontally as well as vertically.

Disclosures are more likely to be clear and conspicuous on websites that are optimized for mobile devices or created using responsive design, which automatically detects the kind of device the consumer is using to access the site and arranges the content on the site so it makes sense for that device.

In this example, the website is optimized for mobile devices, and both the information about the service plan requirement and the hyperlink to the plan's prices are immediately adjacent to the camera price they qualify.

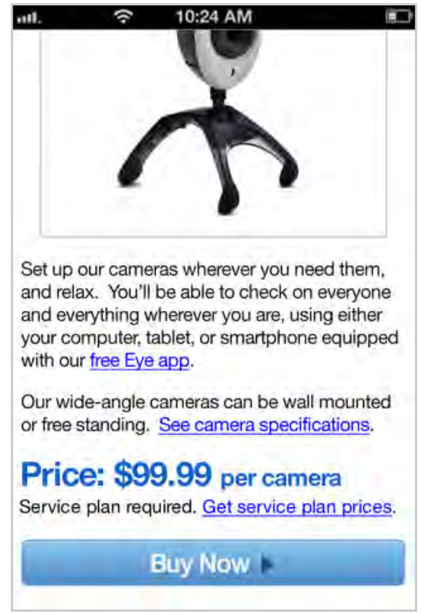


Example 19

大多数可在台式设备上查看的网页也可能可在智能手机上查看，但是，
如前所述，消费者可能会错过移动设备上的披露，因为需要放大文字并同时进行水平和垂直滚动。

在针对移动设备优化或使用响应式设计创建的网站上，披露更可能清晰且醒目，
响应式设计会自动检测消费者访问网站所使用的设备类型，并安排网站上的内容使其对该设备合理。

在此示例中，网站针对移动设备进行了优化，关于服务计划要求的信息
关于服务计划要求以及计划价格超链接的信息紧邻其所限定的相机价格。



Example 20

Because the negative option in this example (enrollment in a recipe club) addresses a different subject than the main offer (cookware), the advertiser should take special care to ensure that the disclosure of the negative option is clear and conspicuous. In this case, requiring consumers to affirmatively acknowledge the disclosure by clicking on one of the two boxes on the second page — neither of which has been preselected — before they can proceed to checkout, should achieve that goal.



(continue on next page)

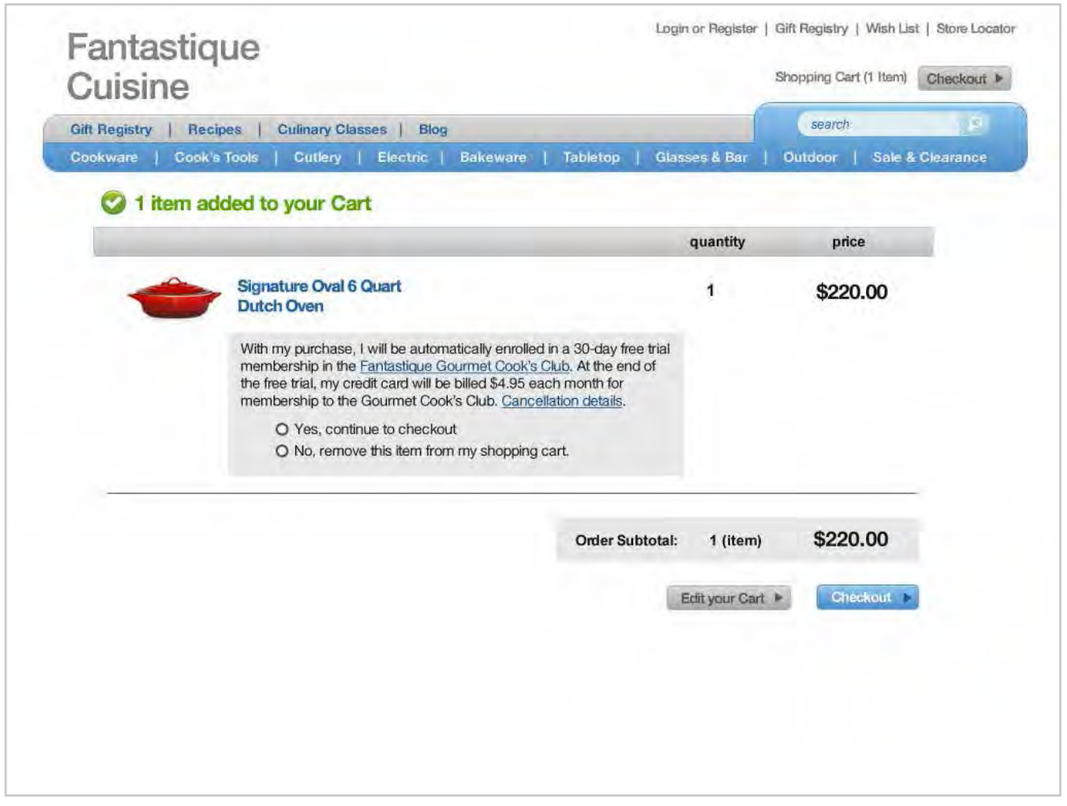
Example 20

由于本示例中的负面选项(食谱俱乐部的注册)涉及与主要要约(炊具)不同的主题，广告主应特别注意确保负面选项的披露清晰且醒目。在本例中，要求消费者在进入结账前通过点击第二页上两个方框之一(两者均未被预先勾选)来 affirmative 确认该披露，应能实现这一目标。

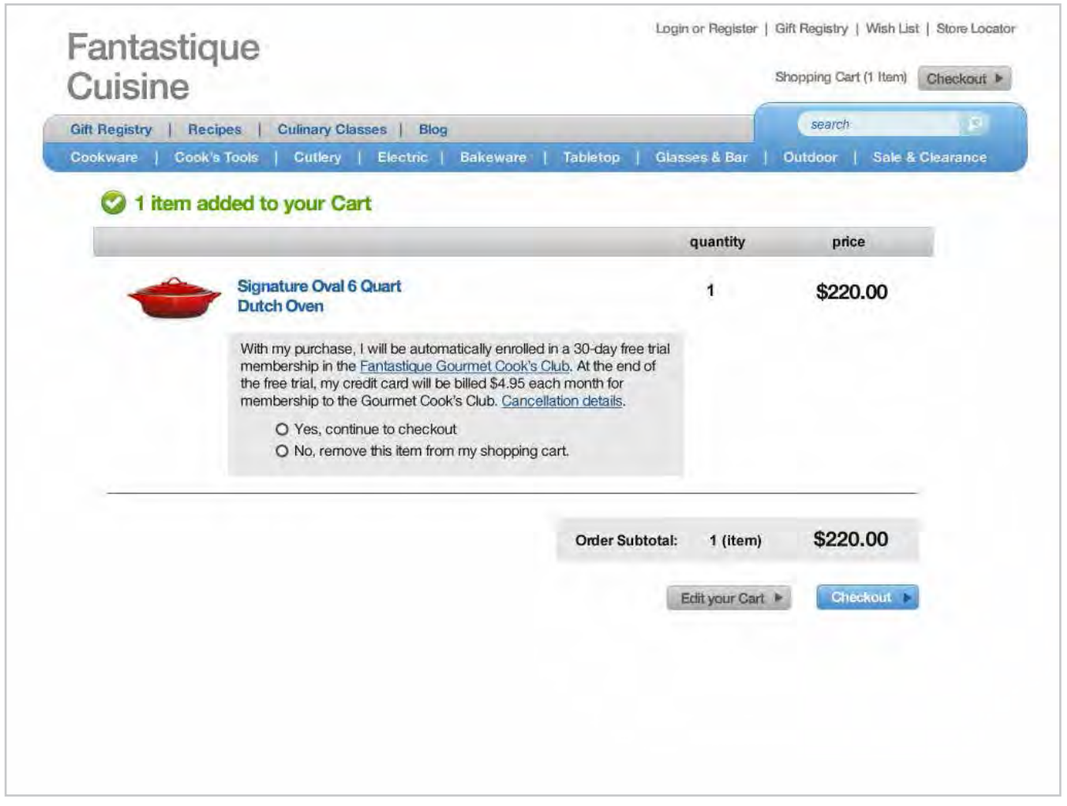


(续下页)

Example 20 (continued)

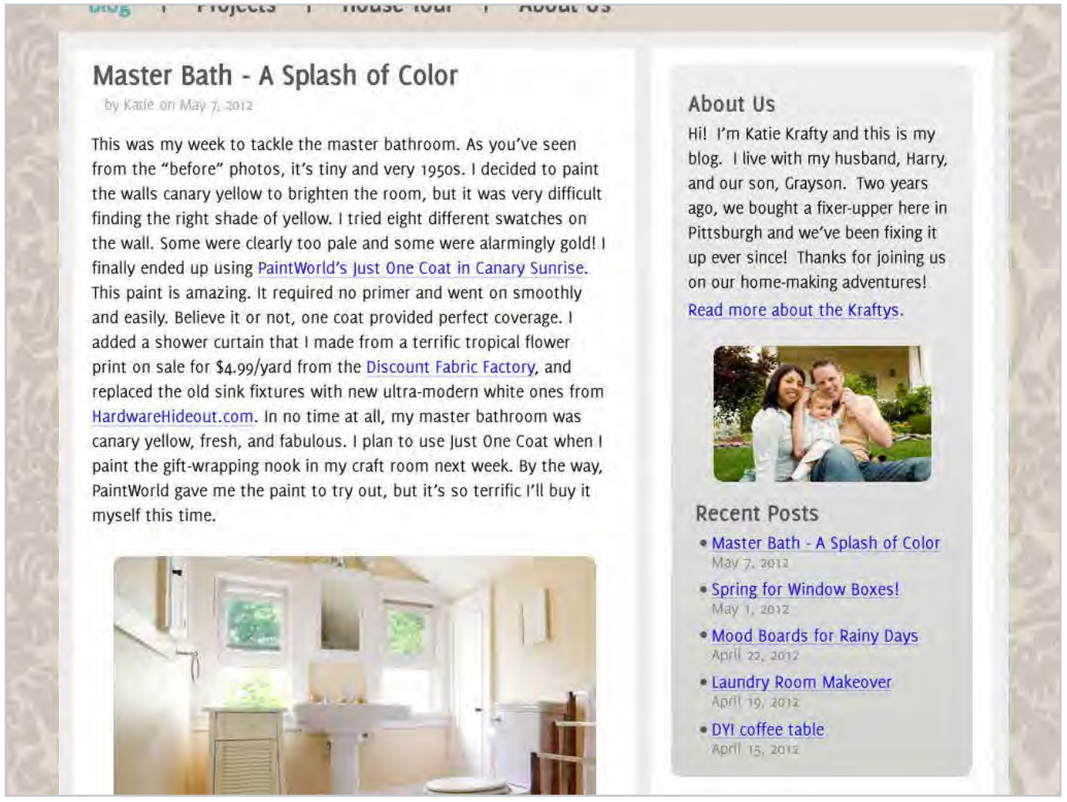


例20(续)



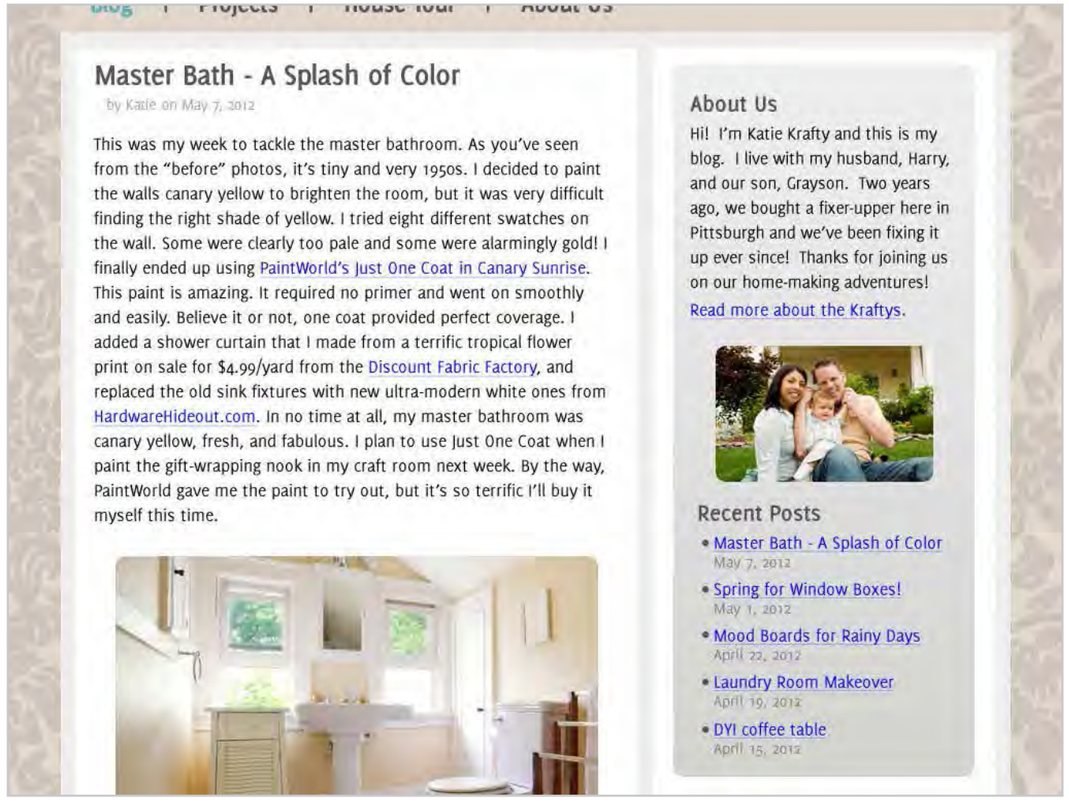
Example 21

The blogger in this example obtained the paint she is reviewing for free and must disclose that fact. Although she does so at the end of her blog post, there are several hyperlinks before that disclosure that could distract readers and cause them to click away before they get to the end of the post. Given these distractions, the disclosure likely is not clear and conspicuous.



Example 21

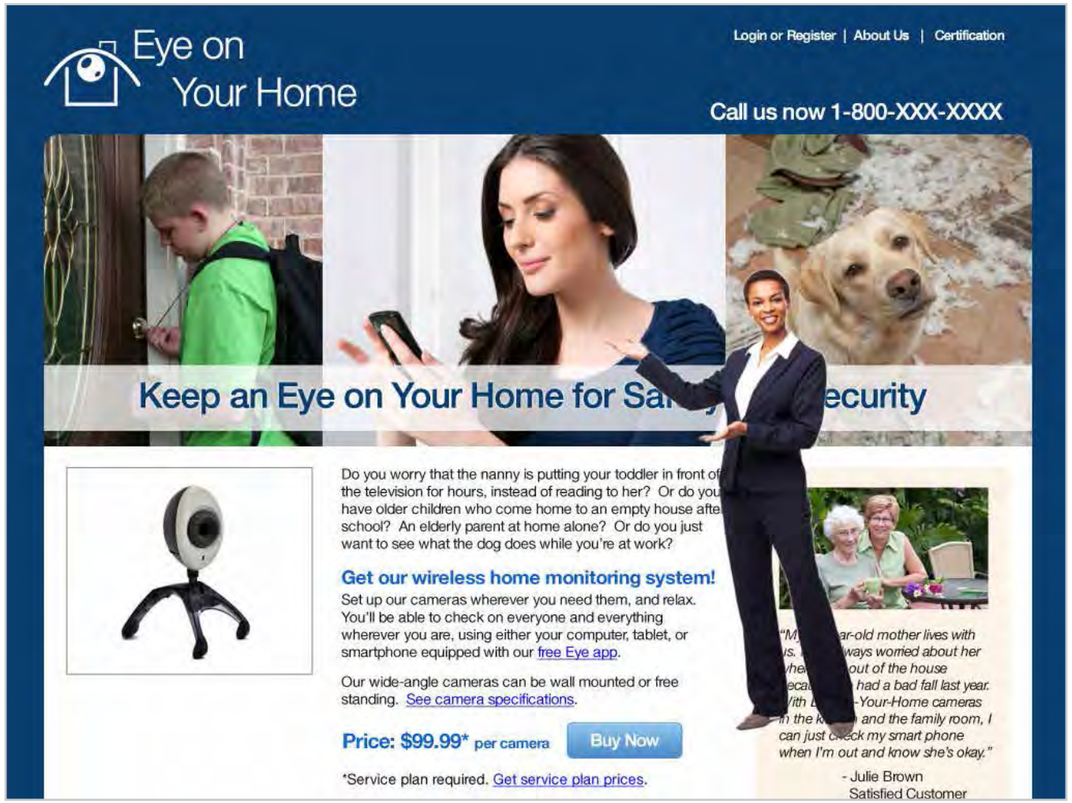
本示例中的博主免费获得了她正在评测的油漆，必须披露该事实。尽管她在博客文章末尾才进行披露，但在该披露之前有多个超链接可能分散读者的注意力，导致他们在读到文章末尾之前就点击离开。鉴于这些干扰因素，该披露很可能不清晰且不醒目。



Example 22

All of the elements of an ad should be considered in assessing whether a disclosure is clear and conspicuous. In some cases, elements that the advertiser might think make an ad more eye-catching could actually distract consumers from important disclosures.

In this example, an animated spokesperson moving around and discussing the benefits of the Eye on Your Home monitoring cameras might distract consumers from the disclosure of the monthly monitoring fee.



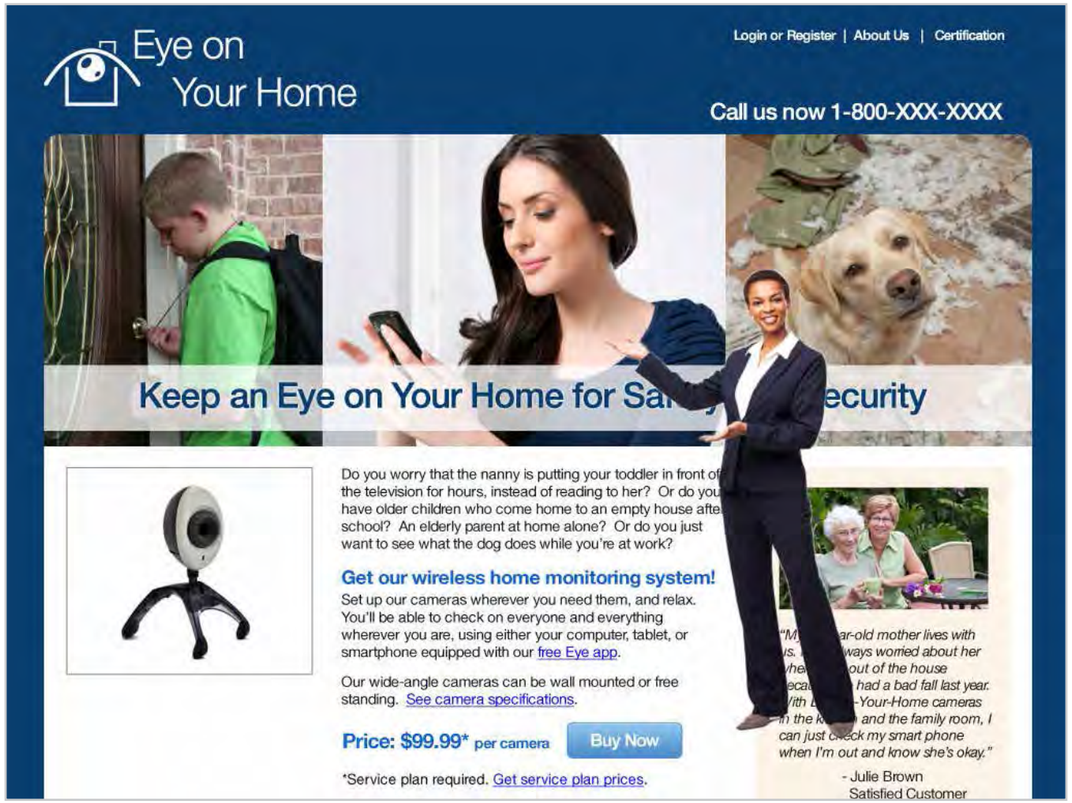
Example 22

在评估披露是否.....时，应考虑广告的所有要素

清晰且醒目时，应考虑广告的所有要素。在某些情况下，广告主可能认为能使广告更引人注目的要素，实际上可能会分散消费者对重要披露的注意力。

在本示例中，一个动画代言人四处走动并讨论

Eye on Your Home 监控摄像头的优点，可能会分散消费者对月度监控费披露的注意力。







How this file was made

This is a complete Chinese translation of the FTC's Dot Com Disclosures. Tables, captions, headers, footers and numbering all keep their original positions. Nothing has been cut.

If you have documents of your own

- Contracts, tenders, standards, patents, reports: original layout kept, CNY 0.15/page
- PDF to Word: free up to 100 pages, CNY 0.10/page beyond that
- Scanned or image-only PDFs: OCR to Word, free
- No sign-up, no login: upload and download

Open the address below and try it with your own file:

https://www.ivyivy.com.cn/ftc-dot-com-disclosures

On-premise deployment available (subject to model and compliance review)

Machine translation, provided for reading reference only. For professional judgement and compliance citation, please refer to the original English source.

This page is a translator's note; it is not part of the original document.

这份文件是怎么做出来的

本译本是FTC《Dot Com Disclosures：在线广告有效披露指引》的中文全译本，共 53 页。表格、图注、页眉页脚、编号层级都按原文位置一一还原，未做任何删节。

你手上如果也有英文文件要处理

- 合同、标书、标准、专利、报告：翻译后保留原版式，0.15 元/页
- PDF 转 Word：100 页内免费，超出 0.1 元/页
- 扫描件、图片版 PDF：先 OCR 再转 Word，免费
- 不用注册、不用登录，传上去直接下载

打开下面这个地址，把你自己的文件传上去试试：

https://www.ivyivy.com.cn/ftc-dot-com-disclosures

支持私有化部署（需按贵方模型与合规要求评估）

本译本由机器翻译生成，仅供阅读参考；专业技术判断与合规引用，请以英文原文为准。

本页为译制说明，不属于原文件内容。