

5 KEY TAKEAWAYS

FTC Endorsement Guidelines

Kilpatrick's [Ty Lord](#) recently presented "FTC Endorsement Guidelines" at the Association of Corporate Counsel (ACC) Georgia Influencer Marketing Panel. The session covered the FTC's framework for endorsements and influencer marketing, along with disclosure best practices, influencer agreements, and recent enforcement.

Ty offers these key takeaways from the presentation:

1

What Should be Disclosed?

Any personal, family, employment, or financial tie, including free products, event invitations, and sweepstake or contest entry, must be disclosed.

When Do Disclosures Fail?

Disclosures fail when they are not clear and conspicuous, i.e., hidden behind "more," buried in hashtags or excluded from videos. Use plain terms like "ad" or "sponsored" rather than "spon" or "collab". Do not rely only on platform disclosures.

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What Belongs in an Influencer Agreement?

Core terms include:

- disclosure requirements for each platform
- substantiated, brand-supplied claims only
- training before the campaign
- pre-posting review and monitoring
- remedies such as withholding payment or termination

Can a Brand Protect Itself Without Buying Praise?

Statements made by influencers must be truthful. A brand cannot require an influencer to make only positive statements about the product if that is not the influencer's experience. Be careful of the scope of non-disparagement clauses in influencer contracts.

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Who Does the FTC Target?

Brands are the primary target, but influencers who ignore warnings face action too.