

CROSS-BORDER UPDATE WITH THE ENFORCERS

Recent Marketing Enforcement Trends
in the US, the UK and Canada

Moderator:

Michael Binetti *Affleck Greene McMurtry LLP*

Panelists:

Lesley Fair *Federal Trade Commission*

George Lusty *Competition and Markets Authority*

Nicola Pfeifer *Competition Bureau Canada*

May 2020





**Nicola Pfeifer
doesn't speak for
the Competition
Bureau.**

**George Lusty
doesn't speak for
the Competition
and Markets
Authority**

**And Lesley Fair
doesn't speak for
the FTC.**

COVID-19 RESPONSE



FEDERAL TRADE COMMISSION



The screenshot shows the top of the Federal Trade Commission website. The header includes the FTC logo, the text "FEDERAL TRADE COMMISSION PROTECTING AMERICA'S CONSUMERS", and navigation links for "Contact", "Stay Connected", "Privacy Policy", and "FTC en español". A search bar is also present. Below the header is a menu with categories: "ABOUT THE FTC", "NEWS & EVENTS", "ENFORCEMENT", "POLICY", "TIPS & ADVICE", and "I WOULD LIKE TO...". The main content area features a news article titled "45 more companies get coronavirus warning letters" by Lesley Fair, dated May 7, 2020. The article text discusses the FTC's actions against companies making COVID-19 claims and provides examples like "Musical Medicine" and "Onus IV". A graphic titled "Coronavirus Updates" is shown on the right side of the article.

FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

Contact | Stay Connected | Privacy Policy | FTC en español

Search

ABOUT THE FTC | NEWS & EVENTS | ENFORCEMENT | POLICY | TIPS & ADVICE | I WOULD LIKE TO...

45 more companies get coronavirus warning letters

By: Lesley Fair | May 7, 2020 11:29AM

FTC staff just sent letters to 45 more companies making COVID-19 prevention, treatment, or cure claims. There's a lot to cover in this post, but it's indicative of the breadth of questionable representations conveyed to consumers in response to the coronavirus pandemic.

Musical Medicine. On Facebook and Twitter, the company has promoted a CD "of frequencies to resist the Coronavirus." To "boost your immune system and weaken the virus," consumers are directed to "play through speakers to broadcast to as many people and surfaces as possible. . . ."

Onus IV. The Denver company has promoted its intravenous treatments by claiming "Vitamin C is already being used to prevent and treat COVID-19 in China and in Korea. And it is working." According to Onus IV, "even small amounts of Vitamin C dramatically decrease severity of symptoms, and increase survival rates, among severely ill viral patients. Large doses work better. Intravenous large doses work better still. . . ."

Coronavirus Updates
Information for your business from
the FTC's Bureau of Consumer Protection
ftc.gov/consumer

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PROTECT YOURSELF - THRIVE: ANTI VIRAL WELLNESS BOOSTER

CONTAINING CLINICALLY RESEARCHED
INGREDIENTS, THRIVE CAN HELP MAKE
A DIFFERENCE IN YOUR LIFE.

FORMULATED WITH POTENT ANTIVIRAL
HERBAL EXTRACTS, THRIVE BY WHOLE
LEAF ORGANICS IS THE PERFECT WAY
TO STRENGTHEN YOUR IMMUNITY
AGAINST PATHOGENS LIKE "COVID-19,"
THE CORONAVIRUS.

RECOMMENDED DOSE FOR ADULTS - 1
CAPSULE 3 TIMES A DAY. SAFE FOR
DAILY SHORT TERM USE, AND TO
COMBAT AILMENTS THE FLU, COLDS,
BRONCHIAL INFECTIONS, FUNGAL AND
YEAST BASED ISSUES, AS WELL AS THE
CORONAVIRUS.




Formulated with clinically tested and proven ingredients.
Our time test formulas are proven and deliver results

FEDERAL TRADE COMMISSION

CARES Act Paycheck Protection Program

WE ARE A DIRECT LENDER FOR THE PPP LOAN PROGRAM!

Paycheck Protection Program questions? Can't get your bank to answer the phone? Get the personal attention you need. Our staff are here to help.



On March 27, 2020, the CARES Act was signed into law making the SBA Paycheck Protection Program disaster loan available to small business owners.

Program highlights are:

- No Collateral
- No Personal Guaranty
- No Fees
- No SBA Guaranty Fees

For answers to frequently asked questions click [HERE](#). If you are ready to begin the application process, Apply [Here](#).



a division of Ponte Investments, LLC

Call Us **888-982-8380**

We are a Direct Lender for the Paycheck Protection Program

COMPETITION BUREAU

- Working with partners
- Price gouging provincial

- 29 letters sent to companies
- No approved treatment, no cure, illegitimate tests



Government
of Canada

Gouvernement
du Canada

Competition Bureau cracking down on deceptive marketing claims about COVID-19 prevention or treatment

From: [Competition Bureau Canada](#)

News release

Warning to businesses: Review your marketing and labelling, and take immediate action to comply with the law

May 6, 2020 - GATINEAU, QC - Competition Bureau

The Competition Bureau is warning all businesses against making false or misleading claims that their products and services can prevent, treat or cure COVID-19.

The Bureau is actively monitoring the marketplace and taking action to stop potentially deceptive claims that could give Canadians a false impression that products or services can treat COVID-19 infections or protect against the coronavirus.

The Bureau has issued direct compliance warnings to a variety of businesses across Canada to stop potentially deceptive claims, including warnings against:

- making claims that herbal remedies, bee-related products, vitamins, vegetables or other food and drink products can prevent COVID-19 infections; and
- making claims—without first conducting the testing required by law—that certain UV and ozone air sterilization systems, as well as certain air filters or air purifiers, will effectively kill or filter out the virus.



COMPETITION AND MARKETS AUTHORITY

GOV.UK

BETA This is a new service – your feedback will help us to improve it.

Report a business behaving unfairly during the Coronavirus (COVID-19) outbreak

Use this service to report a business you believe is behaving unfairly during the Coronavirus (COVID-19) outbreak.

You'll be asked some questions about the behaviour you witnessed.

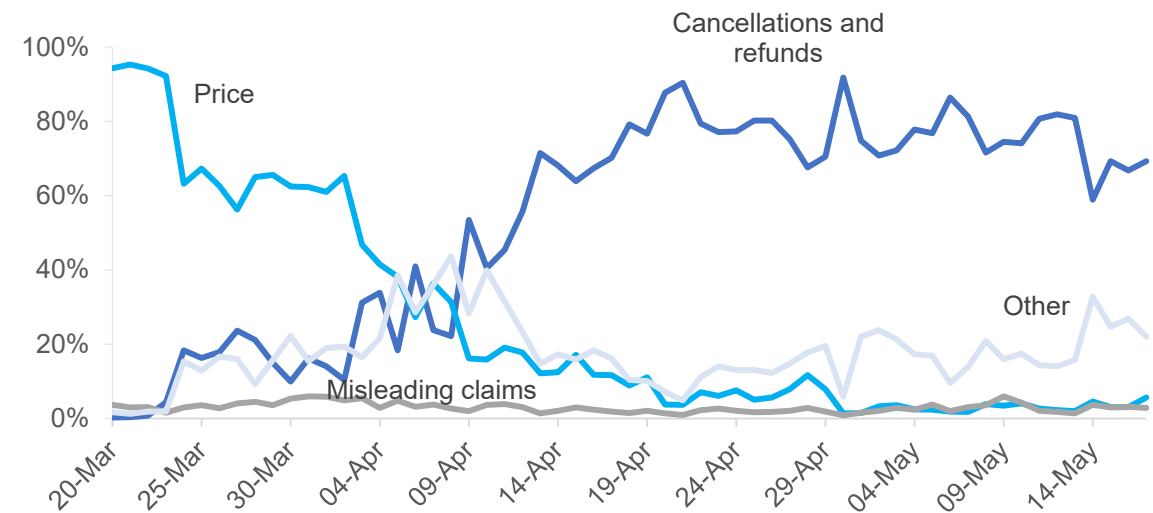
Any information you share by completing this form may be used by the Competition and Markets Authority and may be shared with other bodies in relation to monitoring unfair business behaviour during the Coronavirus (COVID-19) outbreak.

The [CMA Privacy Notice](#) explains how your personal information will be collected, used and shared.

[More information on how your data will be used](#)

Start now >

Complaints by type



COMPETITION AND MARKETS AUTHORITY

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The Guardian

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Business ▶ Economics Banking Money Markets More



Travel & leisure
UK watchdog vows to get tough with UK firms over stalled refunds

Move comes after complaints about cancelled holidays and weddings owing to Covid-19

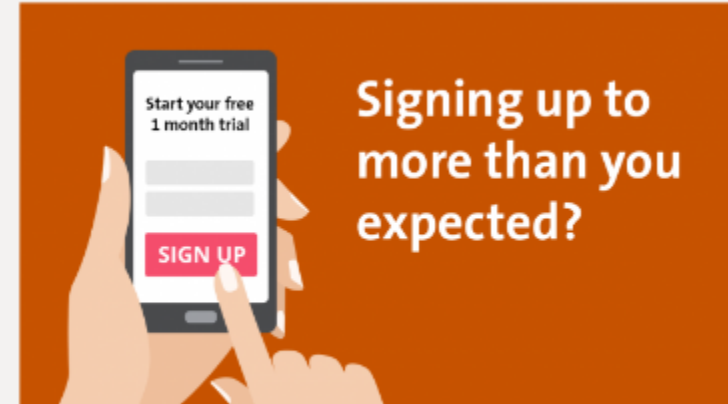
Julia Kollewe
Thu 30 Apr 2020 08.59 BST

f t e 78

How 'free' is this trial? Tips for avoiding unexpected charges

The CMA and ASA are reminding people to take care when signing up to 'free' trials. Read these top tips to help you avoid unwanted and unexpected charges which could cost a lot of money.

[Read more](#)



Guidance

The Coronavirus (COVID-19) pandemic, consumer contracts, cancellation and refunds

Published 30 April 2020


PERFORMANCE CLAIMS



COMPETITION AND MARKETS AUTHORITY

Our top picks | Lowest price first | Review score and price | Stars ▼ | Distance from city centre | Top reviewed

Bestseller



Leonardo Hotel & Residenz Muenchen ●●●● Good **7.9**
4,868 reviews

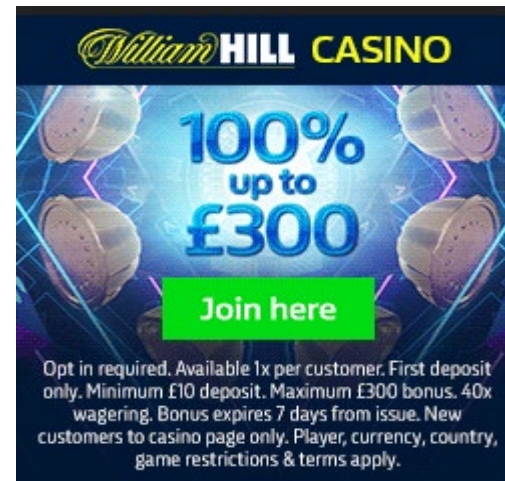
📍 Obergesing - Fasangarten, Munich – Show on map 🗺️ (1.3 miles to the Old Town) – Metro access

Popular now! 18 people are looking at this moment
In high demand! Booked 136 times in the last 24 hours

Twin/Double Room 🛏️
In high demand!

Price for 3 nights **£315**

[See our last available rooms >](#)




William HILL CASINO

100% up to £300

[Join here](#)

Opt in required. Available 1x per customer. First deposit only. Minimum £10 deposit. Maximum £300 bonus. 40x wagering. Bonus expires 7 days from issue. New customers to casino page only. Player, currency, country, game restrictions & terms apply.

Deal of the Day Expires in 14:37:43



2016 **Corus Hotel Hyde Park** Very good **7.8**
1236 reviews

★★★★★ 📍 Hyde Park, London - Excellent location

OFFERS 🍳 Breakfast

OPTIONS 🗑️ Free cancellation +3 more

29 travelers are considering this property right now

Instant discount: £3

70% OFF TODAY

Total price per night
~~377~~
~~438~~
£135



Ladbrokes CASINO

100% UP TO £500 BONUS

[PLAY NOW](#)

Important info: 18+. New Customers Only. Min £20 deposit. Max bonus £500. 20x (deposit + bonus) wagering reqs apply. Contributions to wagering reqs vary by game. Bonus valid for 30 days (bonus + winnings removed). Certain games and payment methods excluded. Bets covering 67% or more of Roulette table don't count to wagering. T&C's apply.

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The most effective innovation in cancer and immune related proactive supplement support in the past ten years. CBD-EX combines the best in cancer fighting elements, into one simple capsule.

Containing clinically tested ingredients, CBD-EX is a dynamic force in anti inflammation protocols, targeting manipulated cells while working to protect healthy ones. Formulated containing Coriolus Versicolor Mushroom, CBD-EX seeks to inhibit the spread of mutated malignant cells, directly attacking the problem.

Our CBD extract contains over 30 different types of terpenes, beneficial in preserving cell structure, while at the same time reducing systemic inflammation. Our PCR Rich cannabinoid extract seeks to mitigate the spread of cancer cells, focusing on cell mitosis reduction and the influence on neighbor cells.

▼ American Journal of Pain and Inflammation

Don't Let the "DEATH ENZYME" Speed You Toward Your Grave

The answer may be a new miracle pain-relieving formula!

People who suffered with pain for years were...
PAIN-FREE in as little as one day!

"See real testimonials!
Page 16"



Thanks to this revolutionary new formula, you could be too - and it's **GUARANTEED** to work!

- ✓ 83-year-old knees are pain-free after one day!
- ✓ Walking with no cane or walker... pain-free!
- ✓ Full relief after 30 years of back pain!
- ✓ Arthritis pain vanished after 9 days!
- ✓ 11 months of severe pain nearly gone in 9 days!
- ✓ No specialist or drug helped... but this did!
- ✓ Joint and foot pain disappeared!
- ✓ Sleeps like a baby after pain disappears!

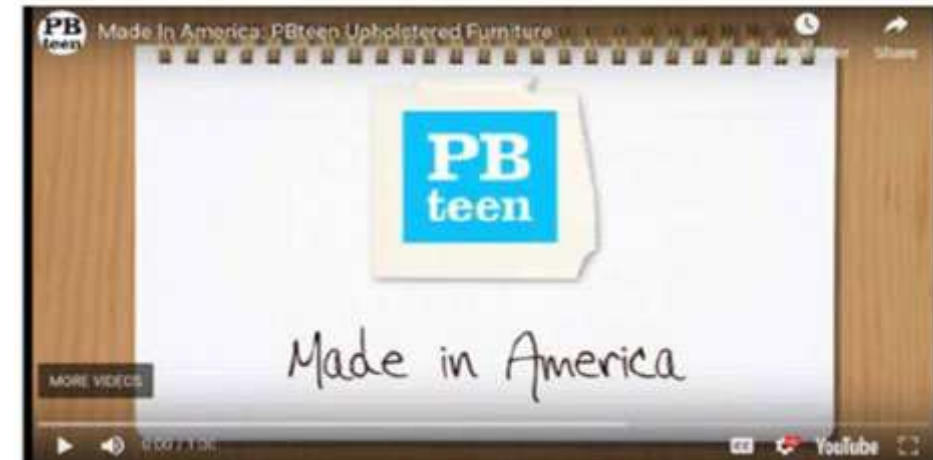
Please read this urgent bulletin NOW to discover relief for your own pain and inflammation!

Whole Leaf Organics (complaint filed)
FTC v. Renaissance Health Publishing, LLC (stipulated order)

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Our sofas and chairs are handcrafted in North Carolina by a family-owned company using sustainable practices and materials made to last.



- **Deceptive Marketing Practices Digest, vol 2**
- Adequate and proper testing
 - not based on academic studies, high sales
 - should reflect real life conditions



FINANCIAL HARM TO CONSUMERS



COMPETITION BUREAU

- Subscription Traps/Negative Option Billing



Government of Canada
Gouvernement du Canada

Free trial that turns out to be a monthly subscription: it's a trap

From: [Competition Bureau Canada](#)

News Release

September 20, 2017 – OTTAWA, ON – Competition Bureau

You are reviewing your bank or credit card statement when you stumble upon a charge that you can't recall. The description doesn't help either. The following month, the same charge appears, and again the next month. You've probably fallen into a subscription trap.

Typical subscription traps entice consumers – usually via social media advertising, sponsored news articles or pop-up surveys on trusted websites -- to sign up for a "free trial" to access a "limited time offer". The websites typically market a variety of goods like health or beauty products. Once you provide your credit card information to cover the small cost of shipping, you've unknowingly signed up for a monthly subscription and are now making monthly payments.

Subscription traps are difficult to identify and stop. Dishonest companies will use high pressure sales tactics to rush your decision. They'll hide the link to the terms and conditions and pre-check sign-up or acceptance boxes. They can also resort to strict cancellation clauses that make it extremely difficult to stop delivery and billing. Sometimes, they'll try to pass themselves off as a trusted company by using URLs that are very close to those of a company you know.

Before signing up for a free trial:

- **Research the company offering the product:** If there are a lot of complaints, stay clear.

- “Free trial”
 - Full cost
 - Monthly billing
 - Other products
- False or misleading can be the product itself or the billing terms



COMPETITION AND MARKETS AUTHORITY

“We were handed the contract on the day that she moved in. When I was able to sit down and read it, perhaps a day later, or that evening, I was astonished to read the term about **2 weeks admin fee**.

As the weekly fees were at the time £1,425 per week, this equates to a **£2,850 admin fee**, which I found staggering, especially given the high weekly cost already.”




COMPETITION AND MARKETS AUTHORITY

MSE News

[MoneySavingExpert.com](#) » [News](#) » [2020](#) » [February](#)
» Competition watchdog to take action on leasehold selling

Competition watchdog to take action on leasehold selling



Callum Mason, News Reporter
28 February 2020

The competition watchdog says it has found evidence of potential mis-selling and unfair contract terms in the leasehold housing sector, and is set to launch enforcement action.

 **Human Fertilisation & Embryology Authority**

Launch of new project by the Competition and Markets Authority into the IVF sector

We are very pleased to be working with the Competition and Markets authority (CMA) on a new project to develop guidance for IVF clinics in the UK to make sure they treat their patients fairly.

The CMA has concerns about the potential mis-selling of services such as IVF 'add-on' treatments, and the mis-representation of clinics' success rates. We are working closely with the CMA to help them to understand patients' experiences and learn more about how clinics operate.

gov.uk/cma-cases/leasehold

gov.uk/cma-cases/self-funded-ivf-consumer-law-guidance

FEDERAL TRADE COMMISSION



**\$191 million
judgment**

FEDERAL TRADE COMMISSION



Progressive
Leasing™

**\$172 million
judgment**

FEDERAL TRADE COMMISSION

FASHION **NOVA**

**\$9 million
civil penalty**

SOCIAL MEDIA and INFLUENCERS



FEDERAL TRADE COMMISSION



FEDERAL TRADE COMMISSION

SUNDAY RILEY

I would like everyone to create 3 accounts on Sephora.com, registered as a different identities. This is how you do it:

1. Create a new persona. Choose their name, city, skin type.
2. Setup a new email on gmail
3. Before going onto Sephora.com, clear your cookie history EACH TIME ...
4. Connect to the internet ONLY using the VPN. Make sure to choose a city of origin that goes along with where your character lives.
5. Leave a review – make sure to NOT compare the product to other products, to not use foul language, and to be very enthusiastic without looking like a plant. Always leave 5 stars.
6. Review a few other products as well – no skincare. Only review makeup, color, hair.
7. Leave a review for a different product every other day so you build up history. You can also use this identity on Beauty Board.
8. You will need to clear cookies and use the VPN every time, or your account will be flagged.

The other thing, if you see a negative review – DISLIKE it. After enough dislikes, it is removed. This directly translates to sales!!

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COMPETITION AND MARKETS AUTHORITY



COMPETITION BUREAU

- Must disclose all material connections
- \$, free products, discounts, personal relationships

A purple graphic titled "Influencers' checklist" from the Competition Bureau of Canada. It features a large, stylized, faceted geometric shape on the left. The text is white and includes a list of six items with checkmarks. The logo of the Competition Bureau of Canada is in the top left, and the word "Canada" is in the bottom right.

Competition Bureau Canada / Bureau de la concurrence Canada

Influencers' checklist

When posting reviews and opinions on social media

- ✓ Ensure that disclosures are as visible as possible: consumers won't dig around
- ✓ Disclose material connections in each post
- ✓ Use clear and contextually appropriate words and images
- ✓ Ensure disclosures are inseparable from the content so they travel together when shared
- ✓ Base all reviews and opinions on actual experience
- ✓ Avoid ambiguous references and abbreviations, such as "Thank You Company X!", "Ambassador", "Partner", "Company X", "SP", "Spon"

Canada

- **Deceptive Marketing Practices Digest – vol 4**
- Letters to 100 brands and marketing companies: health, beauty, fashion, technology, travel



CONSUMER REVIEWS



COMPETITION BUREAU

- Authentic experiences of consumers: Independent, impartial
- The business of reviews



Deceptive Marketing Practices Digest, vol 1

- Signs of Astroturfing
 - recent user profile, lots of positive feedback, handful of products over a short period of time
 - “the best thing ever”
- How would you write a review?



FEDERAL TRADE COMMISSION

Top 9 Companies for Student Loan Refinancing: In-Depth Reviews

1. SoFi



Reduce your payment and interest rate.
Members save \$22,359 in 15 minutes!



VISIT SITE >>

- ✓ Refinance and consolidate both federal and private student loans
- ✓ Rates as low as 2.89% for variable rates
- ✓ Rates as low as 3.25% for fixed rates
- ✓ 5, 7, 10, 15, 20 year repayment terms
- ✓ No application fees, origination fees, or pre-payment fees
- ✓ Unemployment protection is available
- ✓ Easy application process

2. Earnest



You could save a boat load.
Customers save \$21,810 on average!



VISIT SITE >>

- ✓ Refinance and consolidate both federal and private student loans
- ✓ 5 - 20 year repayment terms
- ✓ Variable rates as low as 2.57%
- ✓ Fixed rates as low as 3.25%
- ✓ Data-driven customer evaluation helps you get qualified
- ✓ Zero application fees, origination fees, or pre-payment fees

3. LendKey




You deserve a better student loan.
Average client saves \$16,657!



VISIT SITE >>

FEDERAL TRADE COMMISSION



CRFA prohibits contract terms that:

1. restrict consumers' ability to review a company's products, services, conduct;
2. impose a penalty against a consumer who gives a review; or
3. require consumers to give up intellectual property rights in the content of their reviews.

CONSUMER **R**EVIEW **F**AIRNESS **A**CT

FEDERAL TRADE COMMISSION

_____ J. CONFIDENTIALITY / NON DISPARGEMENT- I agree not to call Animal Control or any governmental agency or individuals if there is a discrepancy to how the horses/ animals or property are taken care of. You will be charged a minimum of \$5,000.00 in damages if you report anything or making contact with any persons or agency or by having another individual(s) do it on your behalf. You will be held responsible for all fines that occur which includes but not limited to court, our legal representation, and fines. I agree to our non- disparagement and protection of reputation clause. For purposes of this Section,

"disparage" s
For every vio
agrees and a
refusing to e
of any kind w
or any legal

I agree not to call Animal Control or any government agency or individuals if there is a discrepancy to how the horses/animals or property are taken care of. You will be charged a minimum of \$5,000 in damages if you report anything or make contact with any person or agency or by having another individual do it on your behalf. . . .

I agree to not disclose by any means whatsoever the terms and conditions of this agreement to any person, group, or entity of any kind whatsoever. For every violation, I will be charged a \$5,000 fine

ntatives, etc.
The Rider
n the Company
group, or entity
n, arbitration,

FEDERAL TRADE COMMISSION

Top 9 Companies for Student Loan Refinancing: In-Depth Reviews

1. SoFi



Reduce your payment and interest rate.
Members save \$22,359 in 15 minutes!



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- ✓ Data-driven customer evaluation helps you get qualified
- ✓ Zero application fees, origination fees, or pre-payment fees

3. LendKey



You deserve a better student loan.
Average client saves \$16,657!



VISIT SITE >>

COMPETITION AND MARKETS AUTHORITY

10 - 5* Star Reviews
Brand new

Reviews

£20.00
Buy it Now
Collection only: Free

5 STARS RATING

SPONSORED
X5 5 Star [redacted] reviews

£7.99
Buy it Now
Free Postage

Description | Postage and payments

Seller assumes all responsibility for this listing.

Item specifics
Business Type: Internet Businesses/ Websites

Buy 5 Star Custom reviews for your Business from a registered, active UK account!

I will leave a custom Five Star review to boost your exposure, social proof and online credibility.

The review will be specific to your company, personalised and high quality. Message me whatever you would like me to write in the review.

Description | Postage and payments

Seller assumes all responsibility for this listing.
Last updated on 14 Apr 2019 23:58:31 BST View all revisions

Item specifics
Condition: New: A brand-new, unused, unopened and undamaged item. See the seller's listing for full details. See all condition definitions

Featured Refinements: SEO

[redacted] Reviews 5 ⭐ For Your Business - SEO Friendly - UK Accounts - 100% Safe and Will stick

Please send link to your [redacted] page and send us what you would like us to write. You know your business better than I do.

Great job, reviews on my website as promised, I'm now buying more !

[redacted] Reviewers (UK ONLY)
Public group

FREE STUFF for [redacted] Review / UK only / Reviewers only
Closed group

About this group

Description

[redacted] reviews are important but can be hard to get. Here's a group for everyone to get together and swap them.

WHAT TO DO:

- Make a post with your request for reviews. Mention any specific details you require from reviewers (location, account age, etc) and mention the business type/industry you want reviews for.
- Exchange reviews.
- ????
- Profit.

30 January at 13:25

Uk people want to exchange reviews? ?

1 Like 3 Comments

Like Share

View 1 more comment

[redacted] Yes. Drop me a pm.

Local Guide - 99 reviews - 1,079 photos
★★★★★ an hour ago
Telly

Like - 1d

[redacted] pm me

Like - 1d

COMPETITION AND MARKETS AUTHORITY

The screenshot shows a CNBC news article. At the top, the CNBC logo is on the left, and a search bar with the text 'SEARCH QUOTES' and a magnifying glass icon is on the right. Below the logo is a navigation menu with the following items: MARKETS, BUSINESS, INVESTING, TECH, POLITICS, and CNBC TV. The article is categorized under 'TECH'. The main headline is 'Facebook and eBay ban users trading fake reviews after warning from the UK'. Below the headline, it says 'PUBLISHED WED, JAN 8 2020•6:42 AM EST | UPDATED WED, JAN 8 2020•6:51 AM EST'. The author is identified as 'Ryan Browne' with a profile picture and the Twitter handle '@RYAN_BROWNE_'. To the right of the author's name are social media sharing icons for Facebook, Twitter, LinkedIn, and Email, with the word 'SHARE' to the left. Below the article content, there is a section titled 'KEY POINTS' followed by three bullet points.

TECH

Facebook and eBay ban users trading fake reviews after warning from the UK

PUBLISHED WED, JAN 8 2020•6:42 AM EST | UPDATED WED, JAN 8 2020•6:51 AM EST

 **Ryan Browne**
@RYAN_BROWNE_

SHARE    

KEY POINTS

- Facebook and eBay have signed agreements with Britain's competition watchdog promising to tackle misleading reviews.
- The regulator said Facebook pulled 188 groups and 24 users while eBay permanently banned 140 users involved in selling fake write-ups.
- But it says it's also discovered "new examples" of fake reviews being sold on Facebook's Instagram.

PLATFORM ISSUES



COMPETITION AND MARKETS AUTHORITY

NEWS WEBSITE OF THE YEAR
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Amazon and eBay tackle profiteering and price gouging as product listings are removed and sellers banned

More than 17m listings deemed to be exploiting coronavirus have been removed or blocked

By **Sam Meadows**, CONSUMER AFFAIRS EDITOR
27 April 2020 • 6:00am

[Twitter](#) [Facebook](#) [LinkedIn](#) [Email](#)



CMA
Competition & Markets Authority

Online platforms and digital advertising

Market study interim report

FINANCIAL TIMES

HOME WORLD UK COMPANIES TECH MARKETS GRAPHICS OPINION WORK & CAREERS LIFE & ARTS HOW TO SPEND IT

CORONAVIRUS BUSINESS UPDATE
Get 60 days complimentary access to our Coronavirus Business Update newsletter

Latest on **viagogo Ltd**

Ticket reseller StubHub faces legal threat **ebay to sell StubHub to Viagogo for \$4bn** **Viagogo faces court threat from UK competition watchdog**

fastFT Viagogo Ltd [+ Add to myFT](#)

Viagogo ordered to improve details on ticket sales

UK watchdog hails victory for consumers as court tells reseller to be more transparent

[Twitter](#) [Facebook](#) [LinkedIn](#) [Print](#)

Nic Fildes and Naomi Rovnick **NEWS** 19th April 2020

Britain's competition watchdog declared victory in its fight to force ticket reseller Viagogo to provide accurate information to customers, including whether or not they are buying from touts.

The Competition and Markets Authority secured a court order after launching legal action against Viagogo in August, having decided the Geneva-based reseller was not complying with consumer-protection rules.

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[Consultations](#) [Statistics](#) [News and comm](#)


[Coronavirus \(COVID-19\): guidance and support](#)

[Home](#) > [Competition](#) > [Consumer protection](#)

Press release
CMA secures better deal for cloud storage users

Amazon, Apple and Microsoft have committed to providing cloud storage users with fairer contracts, following action by the CMA.

Published 17 February 2017
From: Competition and Markets Authority



The 3 companies are the latest cloud storage providers to improve their terms and conditions following the Competition and Markets Authority's (CMA) review of compliance with consumer law in the sector. Last year, the CMA secured separate commitments from [JustCloud](#), [iCloud](#) and [Dixons Carphone](#), and [UK Dropbox](#), [Google](#) and [Mozzy](#) to make changes to their contract terms.

- Permitting a representation to be made – s 52(1.2)
- Criminal and civil
- The facts...



False or misleading representations

The *Competition Act* provides criminal and civil regimes to address false or misleading representations.

Section 52 of the Act is a criminal provision. It prohibits knowingly or recklessly making, or permitting the making of, a representation to the public, in any form whatever, that is false or misleading in a material respect. Under this provision, it



PRIVACY and DATA SECURITY



FEDERAL TRADE COMMISSION

The Equifax Breach – A Global Settlement



\$575,000,000+ settlement



Free credit monitoring
and identity theft services



Strong **data security** requirements

→ Learn more: ftc.gov/Equifax

Source: Federal Trade Commission | FTC.gov

FEDERAL TRADE COMMISSION

The YouTube logo is centered on a black rectangular background. It consists of the word "You" in white, followed by a red rounded rectangle containing the word "Tube" in white.

**\$170 million
civil penalty**

FEDERAL TRADE COMMISSION

The Facebook logo, consisting of the word "facebook" in a white, lowercase, sans-serif font, with a registered trademark symbol (®) to the right. The logo is centered on a dark blue rectangular background.

**\$5 billion
civil penalty**

COMPETITION AND MARKETS AUTHORITY



UK.gov online dating tips: Do get consent, don't make false claims or fake profiles

Probe of dating platform's claims prompts crackdown on online love rat firms

By Rebecca Hill 13 Jun 2018 at 09:28

62 SHARE

"We took action against Venntro because we were concerned people's profiles were being placed on sites without their knowledge or permission, and that they were being misled about how likely they were to meet someone with common ground," said appropriately named George Lusty, senior director for consumer protection at the CMA.



COMPETITION AND MARKETS AUTHORITY



Online platforms and digital advertising

Market study interim report

4. Consumer control over data

- Online platforms offer a range of services that are valued by consumers for no monetary cost in return for their attention and data.
- It is important that consumers can make an informed decision over whether to accept the terms of this exchange and that they receive the right level of protection where they are not able to engage. Equally, it is important that consumers have control over the use of their data, so that they can decide whether to provide or deny access and share it with others if they wish.
- In surveys, most consumers say they place value on their ability to control access to their data, and only a minority are happy to share their data in return for relevant adverts. However, we found that engagement with platforms' privacy policies and privacy controls is generally very low. There are several reasons for this.
- First, there is in some cases a lack of choice: social media platforms such as Facebook do not allow consumers to turn off personalised advertising.
- Second, where choice does exist, it can be difficult to exercise due to a strong tendency to accept default settings presented by platforms. For example, most platforms we assessed served consumers with personalised advertising by default, and we found that engaging with privacy settings was complicated, particularly for social media platforms like Facebook.
- Terms and conditions are also long and complex. We have found that a consumer may need to read 10,000 words before signing up to a service if they are to understand how their data will be used, yet the average visit to the Google privacy page was just 47 seconds.
- Effective regulation that puts consumers in control of their own data is essential in the modern digital economy. However, we have heard concerns that aspects of data protection regulation risk creating competition concerns by unduly favouring the business model of large, vertically-integrated platforms over smaller, non-vertically-integrated publishers. We are working constructively with the ICO to consider how to address these concerns.

- Facebook settlement
- \$9 million, \$500,000 in costs



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Facebook to pay \$9 million penalty to settle Competition Bureau concerns about misleading privacy claims

From: [Compétition Bureau Canada](#)

News release

May 19, 2020 – GATINEAU, QC – Competition Bureau

Facebook Inc. will pay a \$9 million penalty after the Competition Bureau concluded that the company made false or misleading claims about the privacy of Canadians' personal information on Facebook and Messenger. Facebook will also pay an additional \$500,000 for the costs of the Bureau's investigation.

- Impression that users could control who could see and access their personal information when using privacy features
 - general “Privacy Settings” page, the “About” page, the audience selector menu on posts, among others
- Do consumers really understand?
 - what is happening with their data, collection how often, by whom, how it’s being used





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