

# Warner Bros and PEWDIEPIE caught rigging gaming market

Mon, 11 Jul 2016 17:00:00, newstips66, [post\_tag: pewdiepie, category: san\_francisco\_corruption, post\_tag: warner-bros-and-pewdiepie-caught-rigging-gaming-market, category: worldnews]

## Warner Bros. Settles FTC Charges It Failed to Adequately Disclose It Paid Online Influencers to Post Gameplay Videos

### Influencers Were Paid Thousands of Dollars to Promote 'Shadow of Mordor'

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Warner Bros. Home Entertainment, Inc. has [settled Federal Trade Commission charges that it deceived consumers during a marketing campaign](#) for the video game *Middle Earth: Shadow of Mordor*, by failing to adequately disclose that it paid online "influencers," including the wildly popular "PewDiePie," thousands of dollars to post positive gameplay videos on YouTube and social media. Over the course of the campaign, the sponsored videos were viewed more than 5.5 million times.

Under a proposed FTC order announced today, Warner Bros. is barred from failing to make such disclosures in the future and cannot misrepresent that sponsored content, including gameplay videos, are the objective, independent opinions of video game enthusiasts or influencers.

"Consumers have the right to know if reviewers are providing their own opinions or paid sales pitches," said Jessica Rich, Director of the FTC's Bureau of Consumer Protection. "Companies like Warner Brothers need to be straight with consumers in their online ad campaigns."

The [FTC's complaint stems from a late-2014 Warner Bros. online marketing campaign](#) designed to generate buzz within the gaming community for the new release of *Middle Earth: Shadow of Mordor*, a fantasy role-playing game loosely based on *The Hobbit* and the *Lord of the Rings* trilogy. It was released in September 2014 for the PlayStation 3 and in November 2014 for the Xbox 360.

According to the complaint, during the campaign, Warner Bros., through its advertising agency Plaid Social Labs, LLC, hired online influencers to develop sponsored gameplay videos and post them on YouTube. Warner Bros. also told the influencers to promote the videos on Twitter and Facebook, generating millions of views. PewDiePie's sponsored video alone was viewed more than 3.7 million times.

Warner Bros. paid each influencer from hundreds to tens of thousands of dollars, gave them a free advance-release version of the game, and told them how to promote it, according to the complaint. The FTC contends that Warner Bros. required the influencers to promote the game in a positive way and not to disclose any bugs or glitches they found.

While the videos were sponsored content – essentially ads for *Shadow of Mordor* – the FTC alleges that Warner Bros. failed to require the paid influencers to adequately disclose this fact. The FTC also alleges that Warner Bros. did not instruct the influencers to include sponsorship disclosures clearly and conspicuously in the video itself where consumers were likely to see or hear them.

Instead, according to the complaint, Warner Bros. instructed influencers to place the disclosures in the description box appearing below the video. Because Warner Bros. also required other information to be placed in that box, the vast majority of sponsorship disclosures appeared "below the fold," visible only if consumers clicked on the "Show More" button in the description box. In addition, when influencers posted YouTube videos on Facebook or Twitter, the posting did not include the "Show More" button, making it even less likely that consumers would see the sponsorship disclosures.

The complaint also alleges that in some cases, the influencers disclosed only that they had received early access to *Shadow of Mordor*, but failed to disclose that Warner Bros. also had paid them to promote the game.

The FTC also alleges that the Warner Bros.' contracts with influencers subjected their videos to pre-approval, and that on at least one occasion Warner Bros. reviewed and approved an influencer video that lacked adequate sponsorship disclosure.

The Commission's complaint charges that Warner Bros., through its marketing campaign, misled consumers by suggesting that the gameplay videos of *Shadow of Mordor* reflected the independent or objective views of the influencers. The complaint also alleges that Warner Bros. failed to adequately disclose that the gamers were compensated for their positive reviews.

The proposed order settling the FTC's charges prohibits Warner Bros. from misrepresenting that any gameplay videos disseminated as part of a marketing campaign are independent opinions or the experiences of impartial video game enthusiasts. Further, it requires the company to clearly and conspicuously disclose any material connection between Warner Bros. and any influencer or endorser promoting its products.

Finally, the order specifies the minimum steps that Warner Bros., or any entity it hires to conduct an influencer campaign, must take to ensure that future campaigns comply with the terms of the order. These steps include educating influencers regarding sponsorship disclosures, monitoring sponsored influencer videos for compliance, and, under certain circumstances, terminating or withholding payment from influencers or ad agencies for non-compliance.

The Commission vote to issue the administrative complaint and to accept the proposed consent agreement was 3-0. The FTC will publish a description of the consent agreement package in the Federal Register shortly.

The agreement will be subject to public comment for 30 days, beginning today and continuing through August 10, 2016, after which the Commission will decide whether to make the proposed consent order final. Interested parties can [submit comments electronically](#) by following the instructions in the "Invitation to Comment" part of the "Supplementary Information" section of the Federal Register notice.

**NOTE:** The Commission issues an administrative complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty.

The Federal Trade Commission works to promote competition, and [protect and educate consumers](#). You can [learn more about consumer topics](#) and file a [consumer complaint online](#) or by calling 1-877-FTC-HELP (382-4357). Like the FTC on [Facebook \(link is external\)](#), follow us on [Twitter \(link is external\)](#), read our [blogs](#) and [subscribe to press releases](#) for the latest FTC news and resources.

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