

Complaint

IN THE MATTER OF

FASHION NOVA, LLCCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTION 5 OF THE FEDERAL
TRADE COMMISSION ACT

*Docket No. C-4759; File No. 192 3138
Complaint, March 18, 2022 – Decision, March 18, 2022*

This consent order addresses Fashion Nova, LLC's marketing of its Fashion Nova brand apparel. Fashion Nova primarily sold its apparel through its www.fashionnova.com website. The complaint alleges that Fashion Nova violated Section 5(a) of the Federal Trade Commission Act by misrepresenting that the product reviews on www.fashionnova.com accurately reflected the views of all purchasers who submitted product reviews to the website. The consent order prohibits Fashion Nova from misrepresenting: (1) that product reviews on its website accurately reflect the views of all purchasers who submitted reviews of its products; (2) that product reviews are unedited; (3) that product reviews are displayed regardless of the reviewer's opinion or rating; or (4) how product reviews factor into any composite or overall rating of a product..

Participants

For the *Commission*: *Amber Lee* and *Michael Ostheimer*.

For the *Respondents*: *Timothy Muris* and *Chad Hummel*, *Sidley Austin LLP*.

COMPLAINT

The Federal Trade Commission, having reason to believe that Fashion Nova, LLC, a limited liability company ("Respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Fashion Nova, LLC is a California limited liability company with its principal office or place of business at 2801 E. 46th Street, Vernon, California 90058.
2. Respondent has advertised, labeled, offered for sale, sold, and distributed Fashion Nova brand apparel.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

Course of Conduct

4. Respondent has sold its Fashion Nova brand apparel primarily online through the fashionnova.com website.
5. Respondent specializes in "fast fashion" apparel designed and manufactured quickly and inexpensively to allow the mainstream consumer to buy the latest fashion trends. Most

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Fashion Nova merchandise sells for under \$49.99. Respondent has added as many as 1,000 or more new clothing designs per week.

6. Each product page on the Fashion Nova website provides consumers with the opportunity to review the product and rate it on a five-star scale. At the bottom of each product page is a section entitled “REVIEWS.” Next to that is a button labeled “WRITE A REVIEW.” Consumers who click on the button are encouraged to give the product a star rating from one to five, write a review, and “POST” it. If there are no customer reviews for a particular product, consumers are encouraged to “BE THE FIRST TO WRITE A REVIEW.” Fashion Nova also sent its customers emails soliciting product reviews of the customers’ recent purchases.

7. Each product page with existing reviews displayed the product’s average star rating and a summary graph of the number of reviews with each star rating, followed by individual consumers’ reviews and ratings.

8. Fashion Nova installed a third-party online product review management interface. The interface allows users to choose to have certain reviews automatically post based upon their star ratings and hold lower-starred reviews for client approval prior to posting.

9. From as early as late 2015 through mid-November 2019, Fashion Nova chose to have four- and five-star reviews automatically post to the website, but did not approve or publish hundreds of thousands lower-starred, more negative reviews.

Count I**Deceptive Review Practices**

10. In connection with the advertising, promotion, offering for sale, or sale of Fashion Nova brand apparel, Respondent has, through the means described in Paragraphs 6 and 7, represented, directly or indirectly, expressly or by implication, that the product reviews on the Fashion Nova website accurately reflect the views of all purchasers who submitted reviews of Fashion Nova products to the website.

11. In fact, the product reviews on the Fashion Nova website did not accurately reflect the views of all purchasers who submitted reviews of the products because in numerous instances the Respondent suppressed product reviews with ratings lower than four stars. Therefore, the representation set forth in Paragraph 10 is false or misleading.

Violations of Section 5

12. The acts and practices of Respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

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THEREFORE, the Federal Trade Commission this eighteenth day of March, 2022, has issued this Complaint against Respondents.

By the Commission.

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondent named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondent a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondent with violations of the Federal Trade Commission Act.

Respondent and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”). The Consent Agreement includes: 1) statements by Respondent that it neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, it admits the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission’s Rules.

The Commission considered the matter and determined that it had reason to believe that Respondent has violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. The Respondent is Fashion Nova, LLC, a California limited liability company with its principal office or place of business at 2801 E. 46th Street, Vernon, California 90058.
2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondent, and the proceeding is in the public interest.

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ORDER**Definitions**

For purposes of this Order, the following definition applies:

- A. “Respondent” means Fashion Nova, LLC, a limited liability company, and its successors and assigns.

Provisions**I. Prohibited Misrepresentations**

IT IS ORDERED that Respondent, and Respondent’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, promotion, offering for sale, or sale of any product must not make any misrepresentation, expressly or by implication, about product reviews or endorsements of the product, including any misrepresentation:

- A. That product reviews on Respondent’s website accurately reflect the views of all purchasers who submitted reviews of Respondent’s products on the website;
- B. That product reviews or endorsements of any products are unedited;
- C. That product reviews or endorsements of any products are presented regardless of the endorser’s opinion or rating; or
- D. About how product reviews factor into any composite or overall rating of a product.

II. Product Review Display

IT IS FURTHER ORDERED that Respondent must display, on each of its websites displaying product reviews, all reviews for products currently offered for sale that are or were submitted by consumers to such website, including all reviews that Respondent or its agents previously withheld from public view. *Provided that* Respondent: (a) is not required to display reviews that are unrelated to Respondent’s products and unrelated to Respondent’s customer service, delivery, returns, or exchanges; (b) is not required to display reviews that contain unlawful, profane, obscene, vulgar, or sexually explicit content, or content that is inappropriate with respect to race, gender, sexuality, or ethnicity, so long as the criteria for withholding reviews is applied uniformly to all reviews submitted to such website; and (c) is not required to offer the opportunity to submit reviews for any or every product offered for sale on such website.

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III. Monetary Relief

IT IS FURTHER ORDERED that:

- A. Respondent must pay to the Commission \$4,200,000 as monetary relief.
- B. Such payment must be made within 8 days of the effective date of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission.

IV. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

- A. Respondent relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the Complaint establish all elements necessary to sustain an action by or on behalf of the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Respondent's practices alleged in the Complaint. Any money not used is to be deposited to the U.S. Treasury. Respondent has no right to challenge any activities pursuant to this Provision.
- E. In the event of default on any obligation to make payment under this Order, interest, computed as if pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. In the event such default continues for 10 days beyond the date that payment is due, the entire amount will immediately become due and payable.

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- F. Each day of nonpayment is a violation through continuing failure to obey or neglect to obey a final order of the Commission and thus will be deemed a separate offense and violation for which a civil penalty shall accrue.
- G. Respondent acknowledges that its Taxpayer Identification Number (Employer Identification Number), which Respondent has previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

V. Acknowledgments of the Order

IT IS FURTHER ORDERED that Respondent obtain acknowledgments of receipt of this Order:

- A. Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. Respondent must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which Respondent delivered a copy of this Order, Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VI. Compliance Reports and Notices

IT IS FURTHER ORDERED that Respondent make timely submissions to the Commission:

- A. Ninety days after the issuance date of this Order, Respondent must submit a compliance report, sworn under penalty of perjury, in which Respondent must:
 - 1. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Respondent;
 - 2. Identify all of Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;

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3. Describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales;
 4. Describe in detail whether and how the Respondent is in compliance with each Provision of this Order, including a discussion of all of the changes the Respondent made to comply with the Order; and
 5. Provide a copy of each Acknowledgment of the Order obtained pursuant to this Order, unless previously submitted to the Commission.
- B. Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
1. Any designated point of contact; or
 2. The structure of Respondent or any entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
- C. Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Respondent within 14 days of its filing.
- D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.
- E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re *Fashion Nova, LLC*.

VII. Recordkeeping

IT IS FURTHER ORDERED that Respondent must create certain records for 10 years after the issuance date of the Order, and retain each such record for 5 years, unless otherwise specified below. Specifically, Respondent must create and retain the following records:

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- A. Accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;
- B. Personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Copies or records of all consumer or other complaints relating to customer reviews, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;
- E. A copy of each unique advertisement or other marketing material making a representation subject to this Order and a copy of each product review submitted to Respondent; and
- F. For 5 years from the date created or received, all records, whether prepared by or on behalf of Respondent, that tend to show any lack of compliance by Respondent with this Order.

VIII. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondent's compliance with this Order:

- A. Within 10 days of receipt of a written request from a representative of the Commission, Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.
- B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with Respondent. Respondent must permit representatives of the Commission to interview anyone affiliated with Respondent who has agreed to such an interview. The interviewee may have counsel present.
- C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondent or any individual or entity affiliated with Respondent, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

Analysis to Aid Public Comment

IX. Order Effective Dates

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its publication on the Commission’s website (ftc.gov) as a final order. This Order will terminate 20 years from the date of its issuance (which date may be stated at the end of this Order, near the Commission’s seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Provision in this Order that terminates in less than 20 years;
- B. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Fashion Nova, LLC (“Fashion Nova”).

The proposed consent order (“proposed order”) has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter involves Fashion Nova’s marketing of its Fashion Nova brand apparel. Fashion Nova primarily sold its apparel through its www.fashionnova.com website. The company invited customers to leave product reviews on its website and sent its customers emails soliciting product reviews for recent purchases. Each product webpage on the website with existing reviews displayed the product’s average star rating and a summary graph showing the number of reviews with each star rating, followed by individual consumers’ reviews and ratings. According to the

Analysis to Aid Public Comment

Commission's proposed complaint, from late 2015 through November 2019, Fashion Nova had four- and five-star reviews automatically posted to its website, but did not approve for posting or publish lower-starred, more negative reviews.

The proposed complaint alleges that Fashion Nova violated Section 5(a) of the FTC Act by misrepresenting that the product reviews on www.fashionnova.com accurately reflected the views of all purchasers who submitted product reviews to the website.

The proposed order contains provisions designed to prevent Fashion Nova from engaging in similar acts and practices in the future and to provide monetary relief.

Provision I prohibits Fashion Nova from misrepresenting: (1) that product reviews on its website accurately reflect the views of all purchasers who submitted reviews of its products; (2) that product reviews are unedited; (3) that product reviews are displayed regardless of the reviewer's opinion or rating; or (4) how product reviews factor into any composite or overall rating of a product.

Provision II requires Fashion Nova to display all product reviews for products currently offered for sale that are or were submitted to its website. The provision provides that Fashion Nova is not required to display reviews that are unrelated to its products and to its customer service, delivery, returns, or exchanges. The provision also provides that Fashion Nova is not required to display reviews that contain unlawful, profane, obscene, vulgar, or sexually explicit content, or content that is inappropriate with respect to race, gender, sexuality, or ethnicity, so long as the criteria for withholding reviews is applied uniformly to all reviews submitted. Finally, the company is not required to offer the opportunity to submit reviews for any or every product offered for sale on its website.

Provision III requires Fashion Nova to pay the Commission \$4,200,000 within 8 days of the effective date of the order. Provision IV sets out additional requirements related to the monetary relief.

Provisions V through VIII of the proposed order are reporting and compliance provisions. Provision V requires acknowledgement of the order and dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Provision VI ensures notification to the FTC of changes in corporate status and mandates that the company submit an initial compliance report to the FTC. Provision VII requires the company to create and retain certain documents relating to its compliance with the order. Provision VIII mandates that the company make available to the FTC information or subsequent compliance reports, as requested.

Provision IX states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

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IN THE MATTER OF

LOUISIANA REAL ESTATE APPRAISERS BOARDCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTION 5 OF THE FEDERAL
TRADE COMMISSION ACT

Docket No. 9374; File No. 161 0068
Complaint, May 30, 2017 – Decision, April 1, 2022

This consent order addresses the Louisiana Real Estate Appraisers Board's restraints on price competition for appraisal services in Louisiana. The complaint alleges that the Board's promulgation and enforcement of Rule 31101 displaced competition and introduced a regime of rate regulation and that the Board's actions exceeded the scope of its obligations under the appraisal independence provisions in the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act. The consent order prohibits the Board from enforcing Rule 31101, or adopting or enforcing any other rule that sets, determines, or fixes compensation levels for appraisal services. The order also prohibits the Board from raising, fixing, maintaining, or stabilizing compensation levels for appraisal services; requiring or encouraging an AMC to pay any specific fee or range of fees for appraisal services; or requiring or encouraging appraisers to request any specific fee or range of fees for appraisal services.

Participants

For the *Commission*: Lisa Kopchik, J. Alexander Ansaldo, Thomas H. Brock, Wesley Carson, Rachel Frank, and Kenneth Merber.

For the *Respondents*: W. Stephen Cannon, Seth Greenstein, Richard Levine, James Kovacs, Allison Sheedy, and Wyatt Fore, Constantine Cannon LLP.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41, *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission (the "Commission"), having reason to believe that the Louisiana Real Estate Appraisers Board has violated Section 5 of the Act, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

NATURE OF THE CASE

1. The Louisiana Real Estate Appraisers Board (the "Board"), a state agency controlled by licensed real estate appraisers, has unreasonably restrained price competition for real estate appraisal services provided to appraisal management companies ("AMCs") in Louisiana. AMCs act as agents for lenders in arranging for real estate appraisals.

2. The Board adopted a regulation, effective as of November 20, 2013, purportedly implementing a requirement under federal and Louisiana law that AMCs pay appraisers a "customary and reasonable" fee for real estate appraisal services. In both promulgating and subsequently enforcing that regulation, the Board has unlawfully restrained price competition.