



United States of America
FEDERAL TRADE COMMISSION
Washington, D.C. 20580

Mary K. Engle
Associate Director

Sent via electronic and U.S. mail

September 27, 2012

John D. Graubert, Esq.
Covington & Burling LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

Amanda P. Reeves, Esq.
Latham & Watkins LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004-1304

Re: HP Inkology, FTC. File No. 122-3087

Dear Mr. Graubert and Ms. Reeves:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your respective clients, Hewlett-Packard Company and its public relations firm, Porter Novelli, Inc., violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in connection with providing gifts to bloggers who they expected would post blog content related to the HP Inkology campaign. That campaign encouraged printing with original HP printer ink and the use of other HP printer products. Our inquiry focused particularly on the provision of "Tackle the Holidays" gift packs to bloggers who were asked to blog about HP Inkology. Among other things, the gift packs contained two \$50 gift certificates, one for the blogger to keep and the other to give away to blog readers, and printable items, some of which were available for free to the public. We were concerned that most of the bloggers who posted after receiving the gift pack said that HP gave them a \$50 gift card to give away and/or that HP gave them a holiday gift pack with printables, but failed to disclose that they received the \$50 gift cards to keep for posting blog content about HP Inkology.

Section 5 of the FTC Act requires the disclosure of a connection between an advertiser and an endorser when such a relationship is not otherwise apparent from the context of the communication that contains the endorsement. Depending on the circumstances, an advertiser's provision of a gift to a blogger for posting blog content could constitute a material connection that is not reasonably expected by readers of the blog.

Upon careful review of this matter, we have determined not to recommend enforcement action at this time. We considered a number of factors in reaching this decision. First, a relatively small number of bloggers posted content about HP Inkology after receiving the gift pack and a few of those bloggers did adequately disclose their material connections. For example, one kept both gift cards and simply said that she was “a compensated brand ambassador,” and one described “the goodies I received” including “[t]wo \$50 gift cards (one for me and one to give away to a lucky reader!).” Second, both companies have revised their written social media policies to adequately address our concerns. The FTC staff expects that HP and Porter Novelli will take reasonable steps to monitor bloggers’ compliance with the obligation to disclose gifts they receive.

Our decision not to pursue enforcement action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may warrant.

Very truly yours,

A handwritten signature in black ink that reads "Mary K. Engle". The signature is written in a cursive, flowing style.

Mary K. Engle
Associate Director
Division of Advertising Practices