

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, DC 20580



Division of Advertising Practices

Mary K. Engle  
Associate Director

February 22, 2013

Aaron Hendelman, Esq.  
Lydia Parnes, Esq.  
Wilson Sonsini Goodrich & Rosati, PC  
701 Fifth Avenue, Suite 5100  
Seattle, WA 98104-7036

Re: Nordstrom Rack, FTC File No. 122-3167

Dear Mr. Hendelman and Ms. Parnes:

As you know, the staff of the Federal Trade Commission's Division of Advertising Practices has conducted an investigation into whether your client, Nordstrom Inc., violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in connection with its promotion of the opening of a Nordstrom Rack store in Boise. Our inquiry focused particularly on the "TweetUp," a preview of the store opening of Nordstrom Rack Boise held especially for social media influencers on April 10, 2012. Nordstrom provided gifts, including a \$50 Nordstrom Rack gift card, to the influencers who attended the event. We were concerned that Nordstrom did not tell the social media influencers whom it invited to the "TweetUp" that, when they posted or wrote about the event, they should disclose they had received gifts for attending.

Section 5 of the FTC Act requires the disclosure of a material 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 social media influencers for attending an event could constitute a material connection that is not reasonably expected by readers and followers of the social media influencers who write about the event.

Upon 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, including the limited nature of the event at issue, the fact that several social media influencers who posted content about the preview did disclose that Nordstrom had provided them gifts at the preview, and Nordstrom's having revised its written social media policies to adequately address our concerns. The FTC staff expects that Nordstrom will take reasonable steps to monitor social media influencers' compliance with the obligation to disclose gifts they receive.

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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 cursive script that reads "Mary K. Engle". The signature is written in black ink and is positioned above the printed name and title.

Mary K. Engle

Associate Director for Advertising Practices