

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rebecca Kelly Slaughter
 Christine S. Wilson
 Alvaro M. Bedoya

In the Matter of

**GOOGLE LLC,
a limited liability company, and**

**IHEARTMEDIA, INC.,
a corporation.**

DOCKET NO.

COMPLAINT

The Federal Trade Commission, having reason to believe that Google LLC, a limited liability company, and iHeartMedia, Inc., a corporation, (collectively, “Respondents”) have 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. Respondent Google LLC (“Google”) is a Delaware limited liability company with its principal office or place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043.
2. Respondent iHeartMedia, Inc. (“iHeartMedia”) is a Delaware corporation with its principal office or place of business at 20880 Stone Oak Parkway, San Antonio, Texas 78258.
3. Google has manufactured, advertised, labeled, offered for sale, sold, and distributed Google Pixel 4 smartphones (the “Pixel 4”) to consumers.
4. iHeartMedia has recorded advertisements for the Pixel 4 and broadcast those advertisements to consumers.
5. The acts and practices of Respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

Deceptive First-Person Endorsements of Google Pixel 4 Phone

6. Through its media buying agent, Google hired radio stations in October 2019 to have their on-air radio personalities (“Radio Personalities”) record advertisements endorsing the Pixel 4 and to disseminate those ads.

7. iHeartMedia owns more than 850 full-power AM and FM radio stations in the United States, making it the country’s largest owner of radio stations. The company also streams its content over Internet radio. Its radio network is known as iHeartRadio.

8. iHeartMedia employs numerous Radio Personalities. iHeartMedia gives select Radio Personalities the option to receive additional compensation for recording advertisements for specific clients that are played on-air.

9. Google paid iHeartMedia more than \$2.6 million to record and broadcast advertisements featuring Radio Personalities endorsing the Pixel 4.

10. Google spent almost \$2 million in connection with eleven smaller radio networks recording and broadcasting advertisements by their Radio Personalities endorsing the Pixel 4.

11. In October 2019, Google provided iHeartMedia and the other radio networks with scripts for Radio Personalities to use in recording advertisements endorsing the Pixel 4.

12. The typical English-language script began:

The only thing I love more than taking the perfect photo? Taking the perfect photo at night.

With Google Pixel 4 both are a cinch.

It’s my favorite phone camera out there, especially in low light, thanks to Night Sight Mode.

I’ve been taking studio-like photos of everything . . . my son’s football game . . . a meteor shower . . . a rare spotted owl that landed in my backyard. Pics or it didn’t happen, am I right?

Pixel 4 is more than just great pics. It’s also great at helping me get stuff done, thanks to the new voice activated Google Assistant that can handle multiple tasks at once.

I can read up on the latest health fads, ask for directions to the nearest goat yoga class (yes, that’s a thing), and text the location to mom hands-free. . . .

13. An approximate translation of an excerpt from the typical Spanish-language script for the Pixel 4 radio advertisements is:

Pixel 4 is my favorite camera in low light. Its Night Sight mode opened up a galaxy of possibilities for my photos, like the Milky Way! No, really! I just point the camera at the sky and take Instagram-ready photos of the stars! It's easy.

I don't have to learn anything new or do any fancy editing to obtain studio-quality photos at any time and anywhere, like birthday parties, low-light concerts, my mom and dad's 50th birthdays.

And with the continuous zoom feature, I didn't miss a second of my daughter's school play even though I was in the last row.

14. In October 2019, an iHeartMedia employee wrote in an email to Google's media buying agent that the company would like to have its Radio Personalities "customize certain parts of the script pending [sic] what's relevant to their personal lives (i.e. [sic] if they have kids, involved in certain activities/hobbies, etc [sic])." Google's media buying agent approved this request.

15. Before the first advertisements by iHeartMedia's Radio Personalities were recorded, an iHeartMedia employee wrote an email to Google's media buying agent requesting Pixel 4s for the Radio Personalities:

I know this has been something that we have brought up numerous times, but it's something that we really need to get to our voicing talent, especially if we want them to use their own first person tense when voicing. We . . . cannot require talent to use "I" in voiced spots when they have not physically used the product For this reason, we may receive spots from stations that adjust the tense slightly to remove the personalization of "I."

The iHeartMedia employee also wrote that "a few markets" also had raised concerns about Radio Personalities using first person without actually having the smartphones. Google's media buying agent checked with Google and wrote back:

Just heard back from [Google] in regards to [sic] sending Pixels to your talent. Unfortunately, this is not feasible for [Google] at this time as the product is not on shelves yet. It would take over a week to ship all of these phones out resulting in a loss of airtime.

16. In October 2019, forty-three iHeartMedia Radio Personalities at different stations in ten markets—Atlanta, Boston, Chicago, Dallas/Ft. Worth, Denver/Boulder, Houston, Los Angeles, New York, Phoenix, and San Francisco—each recorded advertisements for the Pixel 4 using first-person language identical or substantially similar to that in the scripts described in Paragraphs 12 and 13. Some of the Radio Personalities personalized what they said they did with the Pixel 4. These Radio Personalities did not own or regularly use a Pixel 4 and had not used a

Pixel 4 to take pictures at night. These ads aired over 11,200 times between October and December 2019. They included the ads attached as Exhibits A through D.

17. In late January 2020, Google wanted additional advertisements endorsing the Pixel 4 recorded by different iHeartMedia Radio Personalities. An iHeartMedia employee wrote in an email to a Google employee:

Our influencers really need to have devices to truly make the creative sound authentic and personal and to understand firsthand what makes Pixel different. I know we discussed this in the past. Is there a way for us to get devices for the talent in advance of the campaign? If Google is unable to provide for all, maybe we could at least get one per market and make sure all of the talent gets to experience it before launch? If this isn't a possibility, [sic] we may need to explore purchasing on our end. We think this is essential to making the campaign successful.

The Google employee replied that Google would “not be able to provide devices at this time,” provided a link to a “page [that] has a lot of information on the device that may be helpful for the DJs to get acquainted with the features,” and said she believed “our team has also provided write-up on how to talk about the device.” Google subsequently provided iHeartMedia with only five Pixel 4s, one for each market where the advertisements were to be recorded.

18. In February 2020, twenty-five additional iHeartMedia Radio Personalities at different stations in five markets—Chicago, Denver, Los Angeles, New York, and San Francisco—each recorded advertisements endorsing the Pixel 4 using first-person language identical or substantially similar to that in the script described in Paragraph 12. Some of the iHeartMedia Radio Personalities personalized what they said they did with the Pixel 4. These Radio Personalities did not own or possess a Pixel 4 and had not used a Pixel 4 to take pictures at night. These ads aired over 3,975 times in February and March 2020. They included the ads attached as Exhibits E and F.

19. In October 2019, fifty-four different Radio Personalities at fifty-eight non-iHeartMedia radio stations in ten markets—Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver/Boulder, Houston, Los Angeles, New York, Phoenix, and San Francisco—each recorded advertisements endorsing the Pixel 4 using first-person language identical or substantially similar to that in the scripts described in Paragraphs 12 and 13. Some of the personalities personalized what they said they did with the Pixel 4. Google did not provide those Radio Personalities with a Pixel 4. In most, if not all instances, the Radio Personalities did not own or possess a Pixel 4 and had not used a Pixel 4 to take pictures at night. These ads aired 10,900 times between October and December 2019.

20. In February 2020, sixteen Radio Personalities at sixteen non-iHeartMedia radio stations in five markets—Chicago, Denver/Boulder, New York, San Francisco, and San Jose—each recorded advertisements endorsing the Pixel 4 using first-person language identical or substantially similar to that in the script described in Paragraph 12. Some of the Radio Personalities personalized what they said they did with the Pixel 4. Google did not provide those Radio Personalities with a Pixel 4. In most, if not all, instances, the Radio Personalities did not

own or possess a Pixel 4 and had not used a Pixel 4 to take pictures at night. These ads aired over 2,200 times in March and February 2020.

Count I

False Endorsement Claims By iHeartMedia Radio Personalities

21. Through the means described in Paragraphs 16 and 18, Respondents have represented, directly or indirectly, expressly or by implication, that:

- a. certain iHeartMedia Radio Personalities owned or regularly used a Pixel 4; and
- b. certain iHeartMedia Radio Personalities had used a Pixel 4 to take pictures at night.

22. In fact,

- a. numerous iHeartMedia Radio Personalities who represented that they owned or regularly used a Pixel 4 smartphone did not own or regularly use one; and
- b. numerous iHeartMedia Radio Personalities who represented that they had used a Pixel 4 to take pictures at night had not done so.

Therefore, the representations set forth in Paragraph 21 are false or misleading.

Count II

False Endorsement Claims by Other Radio Personalities

23. Through the means described in Paragraphs 19 and 20, Respondent Google has represented, directly or indirectly, expressly or by implication, that:

- a. certain Radio Personalities owned or regularly used a Pixel 4; and
- b. certain Radio Personalities had used a Pixel 4 to take pictures at night.

24. In fact,

- a. numerous Radio Personalities who represented that they owned or regularly used a Pixel 4 did not own or regularly use one; and
- b. numerous Radio Personalities who represented that they had used a Pixel 4 to take pictures at night had not done so.

Therefore, the representations set forth in Paragraph 23 are false or misleading.

Violations of Section 5

25. The acts and practices of Respondents 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.

THEREFORE, the Federal Trade Commission this _____ day of _____, 202__, has issued this Complaint against Respondents.

By the Commission.

April J. Tabor
Secretary

SEAL:

Exhibit A

Audio recording of Pixel 4 advertisement that aired on WKSC-FM in Chicago, IL 278 times from October 28, 2019 through December 2, 2019

Exhibit B

Audio recording of Pixel 4 advertisement that aired on KODA-FM in Houston, TX 250 times from October 28, 2019 through December 2, 2019

Exhibit C

Audio recording of Pixel 4 advertisement that aired on KYLD-FM in San Francisco, CA 222 times from October 28, 2019 through December 2, 2019

Exhibit D

Audio recording of Pixel 4 advertisement that aired on WBZY-FM in Atlanta, GA 165 times from October 28, 2019 through December 2, 2019

Exhibit E

Audio recording of Pixel 4 advertisement that aired on KTCL-FM in Denver, CO 167 times from February 18, 2020 through March 13, 2020

Exhibit F

Audio recording of Pixel 4 advertisement that aired on WAXQ-FM in New York, NY 164 times from February 18, 2020 through March 13, 2020