

The FTC updated its health products compliance guidelines. Here's what marketers need to know

Article

The Federal Trade Commission (FTC) released **new guidelines for health-related products**—everything from dietary supplements to food to devices. The guidelines encourage marketing that is “truthful, not misleading, and supported by science.” The updates emphasize a few main pillars.

1. The guidelines aren't just for supplements.

- Over-the-counter pills and potions were the focal point of the 1998 guidelines, but the updated document focuses on all “health-related products,” which extends to food, wearables, and even apps.
- Brands and products that previously were not focused on these guidelines need to be aware of them, because the FTC could crack down on false or vague health claims from tech and consumer packaged goods companies.

2. Claims require evidence.

- Marketing copy making health claims requires “competent and reliable scientific evidence,” as stated by the FTC.
- That means testing. Claims must be reinforced by statistically significant results. The guidelines specifically caution against “data mining” or “p-hacking” by testing a small sample group to yield a desired outcome.

3. Don't be vague.

- The FTC stated that qualifying information must be “clear and conspicuous.” Qualifiers like “results not typical” won't cut it.
- The new guidelines require “simple and clear” statements that are visually or audibly noticeable to vulnerable consumers.
- Specific words like “may,” “helps,” and “promising” aren't impactful enough disclaimers. They put consumers at risk and do not convey a study's limitations, according to the guidelines.

Why now? The guidelines, which were originally published some 25 years ago, needed an update. The new guidance aims to help increasingly health-conscious consumers. Our forecasts on health tech reflect that trend.

- Connected fitness use has nearly doubled among US adults since before the pandemic. This year, around 45 million US adults will use connected fitness devices, up from 24.0 million in 2019.
- Smartphone health and fitness app users increased from 68.4 million in 2019 to nearly 90 million this year.
- Smart wearable users increased from around 60 million people in 2019 to nearly 90 million this year.

Supplement users are particularly at risk from misinformation.

“The pandemic caused many more consumers to take charge of their health,” said our analyst Lisa Phillips. “The first place they look is to over-the-counter vitamins and supplements.”

That puts more attention on the industry, according to Phillips. “Consumers expect that the health claims that marketers make for their products [are] true. And if they're not, these consumers are more likely to take some action, whether it's posting on social media or talking to their doctor.”

How will the new guidelines change behaviors? It really depends on what the FTC intends on enforcing.

- “The **legal fundamentals** remain unchanged,” noted the FTC. The guidance is just that—guidance. Still, the increased scope could result in more crackdowns.
- Small businesses may take the biggest hit, as the renewed emphasis on testing could prove too expensive.

But the guidance is good news for consumers, according to Phillips. “The healthcare industry is suddenly getting a lot more attention than it's had in several years, and that's a good thing for consumers.”

And for marketers? You may want to take a **closer look**, since the guidance is not just for supplements anymore.

- Watch out for vague messaging.
- Definitely avoid false claims—or anything that has not been scientifically proven.
- And keep a close eye on how strictly the FTC enforces this guidance.

This was originally featured in the eMarketer Daily newsletter. For more retail insights, statistics, and trends, [subscribe here](#).