



THE CHAIRMAN

FEDERAL TRADE COMMISSION

WASHINGTON, D.C. 20580

December 13, 2007

The Honorable Edward J. Markey
United States House of Representatives
Washington, DC 20515

Dear Representative Markey:

Thank you for your November 8, 2007 letter regarding the adequacy of safety and security information about travel destinations available at TripAdvisor.com. I am saddened to hear of the tragic death of Nolan Webster, the son of your constituent, Maureen Webster, during his visit to a resort in Cancun, Mexico. I share her concern, especially in light of this terrible incident, that consumers should have access to accurate safety and security information when researching travel destinations, and that companies claiming to provide such information should live up to their representations.

TripAdvisor.com ("TripAdvisor")¹ allows travelers to post and read reviews about hotels, tourist attractions, restaurants, or travel locations. The web site also hosts discussion boards, or "forums," on which travelers can ask and answer travel-related questions, share their personal travel experiences, and receive advice from fellow travelers. As you describe in your letter, TripAdvisor uses the tagline "Get the truth. Then go." The web site also states that it provides "[t]he good, the bad and the ugly: Real stories from real travelers." As you point out, in its terms and conditions, TripAdvisor reserves the right to remove any content posted on the site for any reason. In its Travel Review Guidelines and Travel Forum Guidelines, TripAdvisor lists the circumstances under which it removes user posts. TripAdvisor posts a removal notice if it takes off a users' post, which includes links to its posting guidelines.

The Federal Trade Commission ("FTC") has authority to take action against unfair or deceptive acts or practices under Section 5 of the Federal Trade Commission Act (the "FTC Act"). 15 U.S.C. § 45. An act or practice is deceptive under Section 5 of the FTC Act if: (1) there is a representation or omission of information that is likely to mislead consumers acting reasonably under the circumstances; and (2) that representation or omission is material to consumers. FTC Deception Policy Statement, *appended to Cliffdale Assocs., Inc.*, 103 F.T.C.

¹TripAdvisor, LLC, of Needham, Massachusetts appears to own and operate the website.

110, 175 (1984). A representation or omission is material if it is “likely to affect [consumers’] choice of, or conduct regarding a product.” *Kraft, Inc. v. FTC*, 970 F.2d 311, 322 (7th Cir. 1992) (quoting *Cliffdale Assocs.*, 103 F.T.C. at 165). The Commission presumes that certain categories of claims are material, including express claims and claims that the seller intends to make. *Kraft*, 970 F.2d at 322; *Thompson Medical Co., Inc.*, 104 F.T.C. 648, 816-17 (1984).

In reviewing the TripAdvisor website, FTC staff found a wide range of both positive and negative travel reviews. For example, the TripAdvisor forum discussing the Cancun hotel where Mr. Webster died includes posts about safety concerns and other negative information, including specific references to the lack of lifeguards and doctors (“Cancun forum: Safety Concerns”). Although TripAdvisor removed Ms. Webster’s post describing her son’s injury and subsequent death, it left intact other references to Nolan Webster’s death, including other forum posts by Ms. Webster regarding the incident (“Cancun forum: Cancun Oasis Death Jan 7th”). That forum also includes another user’s post regarding an accident at the hotel’s pool, which details the hotel staff’s poor response to the accident and the lack of adequate medical care at the hotel.

In addition, the TripAdvisor website contains other negative reviews concerning this particular hotel, including complaints about unsanitary² and unsafe³ conditions, and dangers posed by negligent hotel staff⁴ and abusive security guards.⁵

We agree that a statement in a website’s terms and conditions reserving the right to remove or edit posted content for any reason does not override a company’s obligations under

²Reviewers frequently refer to the hotel as a “cesspool,” describing hotel rooms that are infested with ants, cockroaches, and bed bugs, and smell of mildew, mold and urine. They speak of leaks and flooding, overflowing toilets, feces on the carpet, and blood- and urine-soaked bed sheets.

³Equally blunt descriptions about the hotel’s unsafe conditions appear, including descriptions of personal items being stolen from hotel rooms, balcony doors without locks, and fires at the hotel during the night due to teenage smoking.

⁴The posts describe hotel staff that do not assist guests whose hotel rooms are burglarized, or even worse, female hotel guests who wander around “beat up and bloody” after being robbed. According to reviewer accounts, the hotel staff also do nothing to address dangerous conditions such as broken glass littering the hotel pool and drunk guests vomiting in the water.

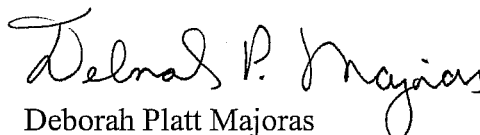
⁵The reviews also include reports about abusive hotel security guards extorting money from, threatening, and even physically assaulting hotel guests.

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the law to act in a manner consistent with any claims that it is a source of comprehensive, objective insights into travel destinations. In evaluating the truthfulness of TripAdvisor's claims, the FTC staff would consider carefully any evidence that TripAdvisor may be engaged in selective removal of negative information that is inconsistent with its marketing and posted policies. In this instance, although TripAdvisor appears to have removed one or more of Ms. Webster's posts about her son's experience, the company has not removed many postings conveying objectively negative information about the hotel where her son stayed, including several messages that refer to his death.⁶

My sympathies go out to Ms. Webster and her family, and I appreciate her efforts to ensure that other consumers are able to obtain truthful safety and security information before they travel. If you or your staff have any additional questions or comments or wish to provide any additional information, please contact me or have your staff contact Jeanne Bumpus, Director of our Office of Congressional Relations, at (202) 326-2946.

Very truly yours,


Deborah Platt Majoras
Chairman

⁶TripAdvisor appears to have replaced Ms. Webster's messages with a removal notice stating that her post was either removed at the author's request or did not meet the forum posting guidelines. Other forum pages on the TripAdvisor website also publish the same notice when posts are removed. These removal notices include links to the website's forum posting guidelines. Each post in a forum also includes a link to enable other users to report if it is an "inappropriate post," thereby underscoring to consumers the fact that some posts may be removed.