



You Should Know Better

A Blogger's Guide to Best Practices:
Legal, Accounting, Disclosure



Introduction

- Speakers
 - Susan Getgood, GetGood Strategic Marketing & Blog with Integrity
 - Liza Barry- Kessler, Privacy Counsel LLC
 - Kristen Berman, Intuit
- What we're going to talk about for the next 60 minutes



Accounting Best Practices

Kristen Berman



Nice to meet you.

Who I am

- Product manager for Intuit's Small Business Group.
- It's my mission to improve the bottom line for small businesses using QuickBooks Online and Billing Manager!
- Previously started and ran my own business for three years.

Who I am not

- An accountant or CPA. I am here to provide you with information based on my experience and discussions with small businesses.



Your blog. Your business.

Have you made some sort of
money off of your blog?

Do you consider yourself
a small business?

Do you currently track
your business money?



Keep the records.

You can't wait until you're rolling in money to start tracking it.



- Government doesn't like it.
- Knowing what you make is the first step to increasing it.
- Mixing and mingling biz and personal isn't helping anyone.



Basic accounting - demystified.



What's going in



What's going out

This is your income. Your profit/loss. Your Business.



It's a balancing act



$$\text{Assets} = \text{Liabilities} + \text{equity}$$

Simple framework for double entry accounting:
...If you do one thing , something else is affected



It can feel
tricky...because of the
language.

Balance Sheet	Tells you how much your business is worth...at any given moment.
Profit Loss	Tells you if your business is profitable or not...over a period of time.
Cash Flow	Tells you if you have enough in the bank to make that payment in full...by predicting your future cash flow.



Frequently asked questions.

- Do I need a business banking account if I only make a little money?
- How do I pay myself??
- Do I need an accountant? (Do I need an accountant to use accounting software?)
- At what point do I have to start reporting this income to the government?
- What do I need a tax ID number for?



It can feel tricky...because of the language.

Sales Tax

Goods and some services! Send to your state on monthly or quarterly basis (selling goods, consulting).

1099

Independent contractors need 1099s. If you have made more than \$600...you need to file this.

Schedule C

Sole proprietor tax form...where the profit is carried over to individual's tax form. (Schedule C-EZ if expenses <\$5,000)

Schedule SE

Self employment tax. (15% of net profit) Don't have to fill this out with a loss.

EIN number

Your business's social security number. Optional for some, but required for LLCs, partnerships, corporations.



The write off game. Should I, shouldn't I?

Ask Yourself...

- You are a member of a softball league. The softball league has membership dues. You find that by playing, you are more relaxed and able to do your job better. It's a true productivity enhancer.
Is this expense both ordinary and necessary to the business? Both elements are required by the IRS.
- Your mom watched the kids while you and your marketing guru best friend went out to dinner to talk about the next big campaign you are running for your site. You send your mom flowers after the dinner, as a thank you for helping out.
 - An expense is ordinary if it is common and accepted in your industry.
 - A necessary expense is one that is helpful and appropriate for your business.
- You typically do your business meetings around town after dropping the kids off to school. You're out for the day, and drop them off on your way to your first meeting.



8 things to remember.

- Record it. Record it. Record it.
- Find a system that works best for you. (e.g. accounting software!).
- Set a Goal. Then track it.
- Keep up with it. Reconcile it once a month...bank account, paypal \$, written notes.
- Keep the personal and the business in separate cookie jars.
- Don't trust everyone. Input controls and safe guards.
- Get aware of the taxes you may owe (SE, sales) and plan ahead.
- Seek advice from an accountant/bookkeeper



Legal Issues & Best Practices

Liza Barry-Kessler



Disclaimer

I am providing you with legal information, not legal advice. I am a lawyer, but I am not your lawyer unless we have a contract that we've both signed, agreeing that I am your lawyer.



Is your blog a “hobby” or a business?

- A business if there is reasonable expectation of earning a profit.
- IRS: an activity is carried on for profit if it makes a profit during at least three of the last five tax years, including the current year.
- Don't forget in-kind income (trips, electronics, clothing, event tickets, sponsorships to attend conferences...anything of value)



What kind of business?

- Sole proprietorship
- LLP
- LLC
- C Corp
- S Corp



Incorporation

- Can be do-it-yourself
- Secretary of State websites are a great resource
- Cost varies



Non-Profit Corporations

- IRS 501(c)(3) Organization:
 - Purpose must be religious, charitable, scientific, testing for public safety, literary, educational, amateur sports competition, or the prevention of cruelty to children or animals.
- IRS 501(c)(4) Organization:
 - “Social Welfare” organization - usually local focus
- REALLY SPECIFIC REQUIREMENTS, do not try this on your own



Blogging Alone: Sole Proprietorship

- Pretty straightforward
- BUT if something goes wrong, you are personally liable
- You may want to consult an accountant to make sure that you understand business expenses, deductions, profits, etc.



Partnerships: LLP

- Good for small groups
- If something goes wrong, the entity is generally liable, not individual partners
- Operating Agreement
 - WRITTEN understanding of who owns how much/what, who invests how much/what, plans for biz dev, what happens if someone wants out
 - Discuss among partners first, then hire a lawyer to make sure the document says what it needs to say to legally reflect your agreement



Traditional Companies: LLC

- Operating Agreement
- If something goes wrong, the entity is generally liable, not owner(s)
- Highly flexible regarding ownership/profit distribution
- Profits “pass through” to owners individual tax returns
- Owner must pay self-employment taxes



Traditional Companies: C Corporation

- Requires Board of Directors, Officers, Annual Meetings, Annual Reports
- If something goes wrong, the entity is generally liable, not owners
- Taxed at Corporate rate; Profits taxed again after distributed to shareholders as dividends
- Easy to sell shares to raise capital



Traditional Companies: S Corporation

- Requires Board of Directors, Officers, Annual Meetings, Annual Reports
- If something goes wrong, the entity is generally liable, not owners
- No corporate tax; profits “pass through” to shareholders
- Profits must be distributed according to share of ownership, regardless of “sweat equity”
- IRS limits on who can own stock



Hiring People, Even Volunteers

- Additional Bloggers/Writers Need Writer's Agreements
 - Who owns the written material?
 - What happens if the site ends?
- Other Services (Web design, accountant, consultants, marketing, lawyers, etc.)
 - Written contracts/proposals



Employees

- If you make money on a blog, you are engaged in “interstate commerce” so minimum wage laws apply to you, even if you are a small business
- Overtime laws apply unless the person is salaried and is a business manager
- Unless you reach 15 employees, federal employment discrimination laws do not apply; your state may have different rules



Blog Policies

- A best practice so that your readers and potential advertisers know how you do business
- From a strictly legal perspective, not required, and pose a potential risk
 - If you create a policy, then ignore it, the FTC considers that a “deceptive trade practice”
- Especially important if you are not a solo blogger



Blog Policies

- Privacy, Disclosure, Advertising, Comment Deletion, Point of View
- Can create a policy describing how you do business on any topic at all
- Highly recommend first three; others as fits your blog



Privacy Policy

- What information do you collect about your readers?
- What do you do with the information yourself?
- Do you provide it to others?
- What will you do with it if you sell your blog? Or quit blogging?
- Is the information securely stored?



Privacy Policy & Children

- If you have a site with visitors you know, or should know, to be under 13, make sure you are complying with the Children's Online Privacy Protection Act. (COPPA)
- The FTC enforces COPPA and in the early years, levied substantial fines against companies that did not comply with COPPA regulations



Disclosure Policy

- How can we tell if a post is your opinion, compensated, came from a donated product or service, etc?
- How can we tell if a link to a product is part of an affiliate marketing program?
- Do you have any current or former relationships that might influence your opinions about a product or service, even if there is no present "material relationship?"
 - IE former Coke employee blogging about Coke products
 - Former regulator blogging about regulatory issues



Advertising Policy

- Do you accept direct ads?
 - Are there types of products or services you won't advertise?
 - Political issues, parties, or candidates?
- Do you participate in an ad network?
 - Where can a potential advertiser find information about them?
 - Do you know whether or not their rules permit you to also have direct ads?



Comment Deletion Policy

- Do you delete comments (other than spam)?
- If you do, when?
 - Inappropriate language
 - Personal attacks
 - Containing personal information
 - Rude
 - Disagree with your opinion/values/beliefs



Point of View

- If your blog is for promoting your point of view - ie, religion, cause, or politics - you may want to be explicit about that
- Indicate whether or not you are open to disagreeing perspectives
- If you are, whether or not there are limits (ie no personal attacks)



REMINDER

- These policies are NOT required, but many blogs have them.
- If you create a policy, you are legally obligated to follow it.
 - If you don't, the FTC considers that a "deceptive trade practice."
- You can change your policies at any time.
 - You should give your readers notice that a policy is about to change, especially a Privacy or Disclosure policy.



Summary

- Your blog is probably a business: treat it as such
- Consider incorporating the business
- Make sure you have the policies you need, and when/if you have policies in place, that you follow those policies. If they don't work for your current situation, change them.



Disclosure: An ethical best practice

Susan Getgood



My disclosure

- I am not a lawyer, nor do I play one on the Internet or at blogging conferences.
- This material is based on my analysis of the FTC guidelines and review of public materials, including news reports and the Blog with Integrity Webinar with Mary Engle of the FTC, November 10, 2009



Disclosure

- Why disclosure is important
- What we should disclose
- How bloggers can protect themselves



“ I disclose my material relationships, policies and business practices. My readers will know the difference between editorial, advertorial, and advertising, should I choose to have it. If I do sponsored or paid posts, they are clearly marked.”

– From the Blog with Integrity pledge



Why Disclosure is Important

1. Maintaining an honest and authentic relationship with your readers
2. Letting PR and marketers know how they might work with you
3. Complying with FTC guidelines on commercial endorsement & testimonials (truth in advertising laws)



What Should You Disclose?



What You Write: Blog Content

- **Editorial**
 - Your original thoughts and ideas
 - No compensation
- **Advertorial**
 - Your thoughts and ideas
 - Guided by a sponsor who is compensating you in some way
- **Advertising**
 - Message entirely controlled by paid sponsor



What You Do: Relationships/Policies

- Material relationships
 - “I am now being sponsored by brand X”
 - “I participate in the [] blog network”
- Policies and business practices
 - Reviews:
 - *“I review the following type of products [...], and keep/return/give away the product at the conclusion of the review”*
 - Compensation:
 - *“I do/do not accept compensation for reviews”*
 - Giveaways:
 - *“I do/do not do giveaways and contests”*



What You Do: Relationships/Policies

- Affiliate relationships
 - *“Purchase through this link and help support me”*
- Sponsored posts/tweets
 - *“I would like to recommend my sponsor, X”*
- Opinion, especially for efficacy claims
 - *“This reflects my own personal experience”*



FTC Guidelines on Endorsements & Testimonials

- Require disclosure of relationship or compensation
- Impose liability for false statements on both company and endorser
- Relevant to blogging if you:
 - Are compensated with cash
 - Are compensated with free product
 - Have a material interest in outcome or business



FTC Examples

- Purchase vs. Coupon vs. Marketing Network
- False Claims, Sponsored Post - "Cures eczema"
- Free Product
- Material Interest
- Celebrity Endorsement



FTC Impact on Bloggers

- Only relevant if you do reviews or engage in compensated relationships
- If you receive any compensation, disclose to protect yourself:
 - Product reviews
 - Post written as a contest entry or giveaway
 - Paid post
 - Post about a trip or other benefit
 - Consulting



FTC Impact on Bloggers

- If you are compensated, you are liable for false statements.
- Protect yourself:
 - Get the information you need to be accurate
 - Read agreements carefully
- Live up to your stated policy - failure to follow could be considered “deceptive business practice.”



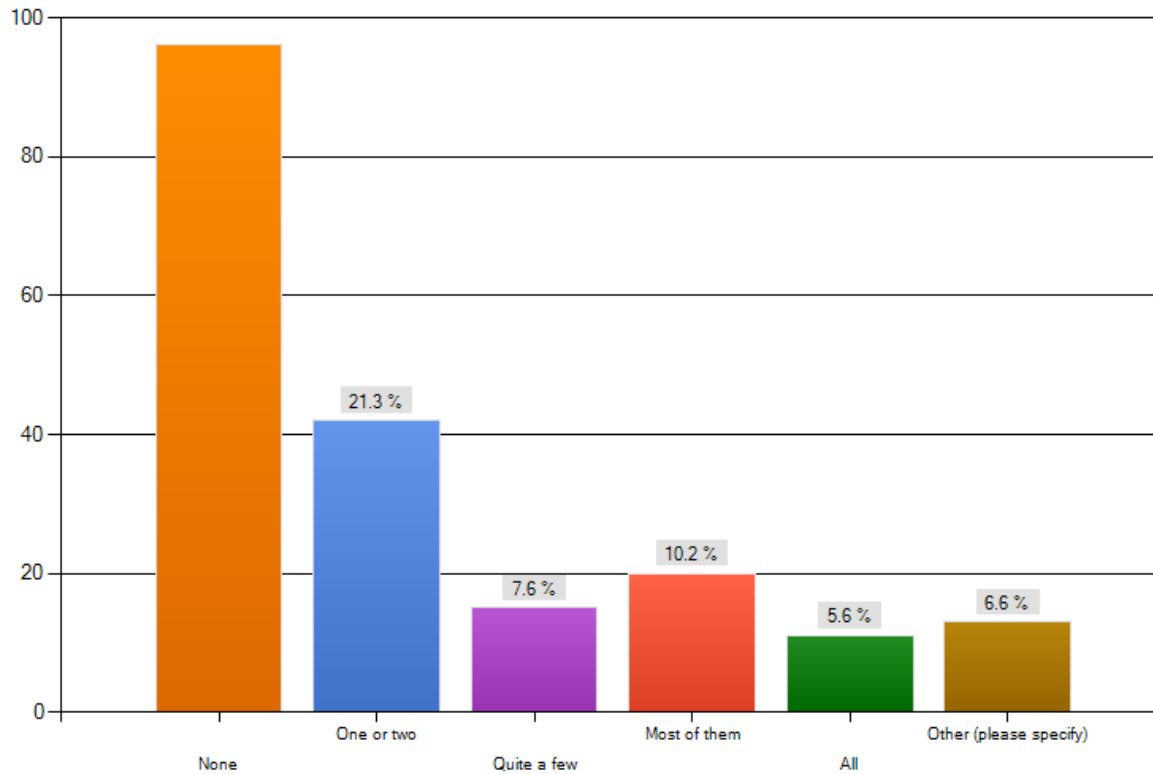
Enforcement

- Guidelines were effective 12/1/2009
- FTC has publicly stated that it intends to focus on companies and advertisers, not individual bloggers
- However, your blog may be part of an investigation. Not necessarily of you, so don't give them a reason. **Comply.**



Survey Says

Thinking about the pitches you've received since December 1 2009 that offered free products or other compensation, *generally speaking* how many have contained guidance or information about a blogger's obligation to disclose his/her relationship with the company?





Disclosure: Get it Right



Ways to Disclose

- Blanket site policy
- Statement or disclaimer within post
- Statement or disclaimer before post
- Category or Tag on post, ie *Sponsored*
- Easily identifiable hashtag, ie #spon



Problematic Ways to Disclose

- Complicated color coded/icon systems
- Disclaimer at bottom of post
- Disclaimer in PDF form
- Disclaimer is hard to find:
 - On page meant for advertisers, not readers
 - Not clearly identified on main page
- Generic templates (DisclosurePolicy.org)



The problem with generic templates

- Designed to protect marketers, not bloggers
- “Legalese” unclear to readers
- Include broad, general statements that are unrealistic & ultimately meaningless
- Not enough SPECIFIC information about practices of the blog



Best Solution

Write your own disclosure statement,
in your own words,
incorporating your policies.



Examples



Disclosure Policy



My name is Lindsay Ferrer. But you can call me Lindsay.

Contact me by email or find me on Twitter and Facebook.

If you'd like me to write about a product on my review blog, send me an e-mail here.



Unless I state otherwise, you can assume I received a free sample of the products that I review on this blog and, sometimes I also receive a gift certificate in exchange for writing an honest review. I've also begun writing sponsored posts here (and ONLY here) from time to time, but only for products that I personally believe in and endorse. Since I only agree to review those products I think I'll like, you'll find that most of these reviews are positive. I will, however, be honest regarding my opinions on reviews I choose to write, whether they are good or bad. Pinky swear.

I offer quite a few giveaways on this site, but if you win, your prize will be sent from the company offering it, not from my home. Consequently, I am not responsible for bad PR reps who mail your prize 4 months late (which happened once) or never mail it at all (which hasn't happened yet, fingers crossed). Just so you know.



Posts & Reviews

A Spectrum of reviews

formerly "Reviews from the Couch" but my kids totally trashed my beloved plaid couch... karianna@karianna.us

Tom's of Maine All-Natural Toothpaste Creates Silly Smiles

This is a compensated review by BlogHer and Tom's of Maine.



blogger REVIEW

When I was in Kindergarten, I was put on the Feingold Program, a diet that eliminated artificial flavors and artificial colors, as well as other food additives that can cause behavioral problems in sensitive children. One of the first substitutions my parents made was to get rid of that brightly colored, highly flavored toothpaste that most kids use. Instead, they gave me Tom's of Maine natural toothpaste. Cinnamint became my favorite flavor.

When my son went on the Feingold Program, I was surprised and happy to see that Tom's of Maine had expanded its line to include more flavors and types than those selections available when I was young. (They even have natural mouthwash that doesn't taste like some of those *other* all-natural products out there.) I was especially excited when BlogHer contacted me recently to ask if my kids might want to try Silly Strawberry Children's Toothpaste.

SEARCH

Search this blog:

Search

REVIEW BLOGGERS



Who's talking about you? PBN

* Back to School, Back to Parent Bloggers Network

<http://www.blogger.com/>



Affiliate Links

Affiliate marketing. The main source of revenue here at Want Not is commissions I make off of sales generated through [affiliate linking](#). (Cliff Notes version: I have an existing relationship with a store whereby using a special link gives me a percentage commission of any sales made through that link.) Per the new FTC rules, although I previously disclosed those affiliate relationships on my [About page](#), any link through which I stand to make money will now be clearly marked as an affiliate link via hover text.

Example:
[This is a non-affiliate link to Amazon.](#)
[This is an affiliate link to Amazon.](#)
(Holding your mouse over each link will show you the difference.)

From December 1st, 2009, all [links on this site](#) will have the hover text disclosing them as such. If a link doesn't have that text, well, it's not an affiliate link. It's just a link. I am not an affiliate with every merchant I feature here.

WantNot.net



Sponsored Tweet



Who Are The Wiggles?

Written By Savvy Auntie Staff Writers



Sponsored content

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Who are The Wiggles you ask?! Your niece and nephew's favorite kids band!
<http://bit.ly/TtRd> [sp]

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Burberry scarves & bags on sale
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<http://bit.ly/3UQp6h> [sp]

3:32 PM Aug 31st from Seismic

 **SavvyAuntie**
Melanie Notkin

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Celebrities

- Kim Kardashian's \$10,000 tweet
- Gwyneth Paltrow's GOOPy trip to Marrakesh



Resources

- Blog with Integrity, blogwithintegrity.com
- WOMMA – Word of Mouth Marketing Association, womma.org
- Federal Trade Commission, ftc.gov



Contact Us

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Questions?

2:15-3:00 pm
Jackson E Room