

FOR FURTHER INFORMATION CONTACT:
Kimberly Weaver, Office of External
Affairs, (202) 942–1640.

SUPPLEMENTARY INFORMATION:

Board Meeting Agenda

Open Session

1. Approval of the October 22, 2024,
Board Meeting Minutes
2. Monthly Reports
 - (a) Participant Report
 - (b) Investment Report
 - (c) Legislative Report
3. Quarterly Reports
 - (d) Metrics Report

Closed Session

4. Information covered under 5 U.S.C.
552b(c)(6), (c)(9)(B), and (c)(10).
(Authority: 5 U.S.C. 552b (e)(1))

Dated: November 13, 2024.

Dharmesh Vashee,

*General Counsel, Federal Retirement Thrift
Investment Board.*

[FR Doc. 2024–26805 Filed 11–15–24; 8:45 am]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

[File No. 232 3060]

**Sitejabber; Analysis of Proposed
Consent Order To Aid Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement;
request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 18, 2024.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write “Sitejabber; File No. 232 3060” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:
Joyce Dela Peña (202–326–2722),
Attorney, Division of Advertising
Practices, Bureau of Consumer
Protection, Federal Trade Commission,
600 Pennsylvania Avenue NW,
Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names. Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before December 18, 2024. Write “Sitejabber; File No. 232 3060” on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. If you prefer to file your comment on paper, write “Sitejabber; File No. 232 3060” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex J), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive

health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <https://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before December 18, 2024. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from GGL Projects, Inc., which does business as Sitejabber (“Sitejabber”). The proposed consent order (“proposed order”) has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received

during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves consumer reviews and ratings of businesses and products that Sitejabber collected on behalf of its clients' businesses. It collected these ratings and reviews from consumers at the time of purchase, before consumers had an opportunity to actually experience the product or service purchased. According to the FTC, Sitejabber used these point-of-purchase results to inflate the ratings and review counts of its clients on the Sitejabber.com review platform and in Google and other search results. The complaint explains that Sitejabber also provided its clients with product review widgets that allowed them to publish, on their own websites, product-specific ratings and reviews that Sitejabber collected.

The complaint alleges that Sitejabber violated section 5(a) of the FTC Act by misrepresenting that point-of-sale ratings and reviews reflected the experiences of consumers who had actually received and had the opportunity to experience the product or services purchased. The complaint further alleges that Sitejabber provided its business clients with the means and instrumentalities to deceive consumers that product reviews and ratings collected at the time of purchase and displayed on the clients' websites were from consumers who had received and had the opportunity to experience the product being reviewed.

The proposed order contains provisions designed to prevent Sitejabber from engaging in these and similar acts and practices in the future. Provision I prohibits Sitejabber from misrepresenting or assisting others in misrepresenting that the average customer rating or total number of ratings or reviews of a product, service, or business reflects the views of customers who had received the product or service purchased and had the opportunity to experience it, or that any rating or review collected at the time or point of purchase was collected from a customer who received the product or service purchased or had the opportunity to experience the product or service purchased. The provision also prohibits misrepresentations about any ratings, average ratings, or reviews that Sitejabber collects, moderates, or displays. Provision II prohibits Sitejabber from providing others with

the means or instrumentalities to misrepresent that product or service ratings or reviews collected at the point of purchase were collected from customers who had the opportunity to experience the product or service purchased.

Provisions III through VII of the proposed order contain reporting and compliance provisions. Provision III mandates that Sitejabber acknowledge receipt of the order, distribute the order to principals, officers, and certain employees and agents, and obtain signed acknowledgments from them. Provision IV requires Sitejabber to submit compliance reports to the Commission one year after the order's issuance and submit notifications when certain events occur. Under Provision V, Sitejabber must create certain records for ten years and retain them for five years. Provision VI provides for the FTC's continued compliance monitoring of Sitejabber's activity during the order's effective dates. Finally, Provision VII provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,
Secretary.

Concurring Statement of Commissioner Melissa Holyoak

I support today's settlement with Sitejabber, an online review platform that collected customer ratings and reviews about shopping experiences and products through surveys displayed on the checkout screen. The crux of the Complaint is that Sitejabber allegedly (1) misrepresented that customer ratings and reviews displayed on its website and in internet search results were from consumers who had the opportunity to experience the products or services purchased, and (2) provided its clients using the embeddable web widget with the "means and instrumentalities" to misrepresent that the displayed customer reviews and ratings were from customers who had actually purchased or experienced the product or service. I write in brief to note our proper use of the "means and instrumentalities" doctrine here, a form of primary liability appropriate where the defendant itself engages in deception.¹

¹ See, e.g., *In re Shell Oil Co.*, 128 F.T.C. 749, 764 (1999) (majority statement) ("It is well settled law

The Complaint alleges that Sitejabber's embeddable web widget, which displayed Instant Feedback Product Reviews ("IFPRs"), was, as designed, an inherently deceptive tool. While Sitejabber collected real feedback about customers' shopping choices at the point-of-sale,² Sitejabber's widget displayed it on customer-facing websites as "star" ratings of products themselves. According to the Complaint, Sitejabber built a mismatch into IFPRs, limiting real customer reviews to one aspect (shopping choices), while displaying those reviews about an entirely different aspect (the product itself).³ Importantly, there is no suggestion that Sitejabber's clients had the ability to control or customize the output from the embeddable web widget. Thus, Sitejabber allegedly designed, distributed, and deployed IFPRs for its clients, in short, to mislead consumers about what product ratings signified.

Unlike the Commission's Complaint against review writing platform Rytr,⁴ this Complaint properly alleges that Sitejabber provided the "means and instrumentalities" to deceive consumers. Whereas Rytr provided a neutral review-writing tool that may have been used deceptively in some instances,⁵ we allege here that the only function of Sitejabber's embeddable web widget, as designed, was to enable its clients to display a deceptive description of its instant ratings and reviews on their own websites.

Of course, there is nothing inherently deceptive about the collection, use, and display of consumer reviews, where the output accurately reflects the input. Indeed, such products could be highly valuable to both consumers and the market, enabling businesses to tout real customer reviews about their products

that the originator is liable if it passes on a false or misleading representation with knowledge or reason to expect that consumers may possibly be deceived as a result.") (citing *Regina Corp. v. FTC*, 322 F.2d 765 768 (3d Cir. 1963) (affirming liability under means and instrumentalities theory where defendant distributed its own misrepresentative price lists that were used, in turn, to deceive consumers)); *id.* at 766 (Commissioner Swindle, dissenting) ("Means and instrumentalities is a form of primary liability, and a respondent is primarily liable only for its own misrepresentations to consumers.").

² Compl. ¶ 22.

³ *Id.* ¶¶ 23–25.

⁴ Dissenting Statement of Comm'r Melissa Holyoak, Joined by Comm'r Andrew N. Ferguson, *In re Rytr, LLC*, FTC Matter No. 2323052 (Sept. 25, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/holyoak-rytr-statement.pdf.

⁵ See generally *id.*; see also Dissenting Statement of Comm'r Andrew N. Ferguson, Joined by Comm'r Melissa Holyoak, *In re Rytr LLC*, Matter No. 232 3052 (Sept. 25, 2024), https://www.ftc.gov/system/files/ftc_gov/pdf/ferguson-rytr-statement.pdf.

or services and facilitating more informed consumer decisions about their shopping experience or the product itself. But design choices matter when developing these types of products. And Sitejabber's design choice here conflated real customer feedback about shopping choices with an actual rating for a product, harming its clients and consumers.

Concurring Statement of Commissioner Andrew N. Ferguson

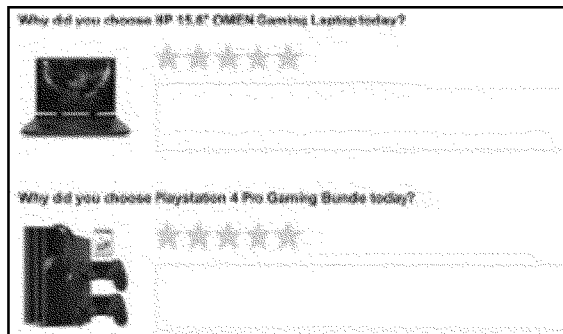
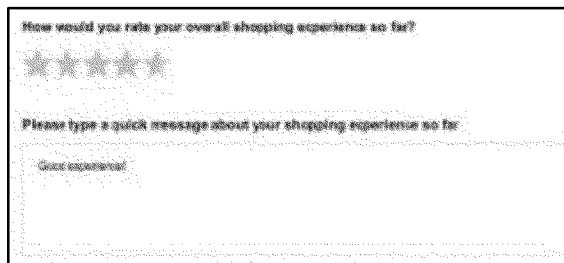
Today, the Commission issues an administrative complaint and accepts a proposed consent agreement with Sitejabber.¹ Sitejabber provided its clients, e-commerce stores, with the ability to collect instant shopping-experience and product reviews from customers on order confirmation screens—immediately after placing an order but before the customer could have received or used the products. For posting these reviews and average ratings on its clients' profile pages on *Sitejabber.com*, and misrepresenting

that the reviews were from customers who had actually received and used the products, the complaint accuses Sitejabber of deceiving consumers in violation of section 5 of the FTC Act.² For giving its clients the ability to embed those same product ratings on their own websites, the complaint accuses Sitejabber of a further section 5 violation for furnishing its clients with the means and instrumentalities to deceive consumers. I concur in both counts.

This case presents some of the same issues presented in the Commission's recent action against the artificial-intelligence platform Rytr, from which I dissented.³ The Commission raises the same means-and-instrumentalities theory of section 5 liability that it deployed against Rytr for offering an AI-powered consumer review generator. Sitejabber's alleged business practices, however, are very different from Rytr's. Although someone could have used Rytr's tool to deceive consumers, the tool also had substantial lawful uses.

Sitejabber's instant product reviews and the widgets by which its clients displayed them on their own websites, however, served no purpose other than to deceive consumers. Indeed, it appears that Sitejabber's very purpose in offering the widgets was to assist its clients in deceiving consumers.

Sitejabber collected two types of reviews from consumers. Instant Feedback Surveys (IFSs) asked customers to comment on their shopping experience immediately after concluding a purchase, and to rate that experience on a scale of one-to-five stars. Instant Feedback Product Reviews (IFPRs) also took the form of a written response and a one-to-five-star rating, but asked customers why they chose the product they had just purchased. Sitejabber would collect these reviews from the consumer on the retailer's web page. Prompts to collect the reviews would pop up on the retailer web page almost immediately after the consumer had finalized a purchase.



Instant Feedback Survey (IFS)

Sitejabber maintained a public profile page on *Sitejabber.com* for each of its retail clients showing their average rating and individual reviews, including IFS-derived ratings and reviews. Additionally, on a "Products" tab on that same page, Sitejabber listed the

products sold by that client alongside the average IFPR ratings for each.⁴ Consumers browsing these profile pages would reasonably believe that all these reviews and ratings were from customers who had received and had a chance to use the products sold by the

Instant Feedback Product Reviews (IFPRs)

retailers. The Commission alleges that Sitejabber did not adequately disclose that these reviews and ratings were obtained at the point of sale, before the customers could have received, let alone used, the purchased products. For misrepresenting IFSs and IFPRs as

¹ *In re GGL Projects, Inc., a corporation, also d/b/a Sitejabber*, Complaint & Decision and Order.

² 15 U.S.C. 45(a).

³ Dissenting Statement of Commissioner Andrew N. Ferguson, joined by Commissioner Melissa Holyoak, *In the Matter of Rytr LLC*, Matter No. 2323052 (Sept. 25, 2024) ("Ferguson Rytr Dissent").

⁴ For some of Sitejabber's clients, the ratings would also incorporate reviews from consumers who had a chance to receive and use the products.

Such reviews are not inherently deceptive, and nothing in the Commission's proposed consent order would prohibit Sitejabber from displaying those reviews, and the average ratings derived from them, on its own site or through widgets. See Decision & Order at 5–6 (prohibiting Sitejabber from misrepresenting that reviews collected at the point of sale were from customers who had an opportunity to receive and use the product, from misrepresenting that ratings were derived only from reviews left by customers who had such an

opportunity, and from providing the means and instrumentalities to make such misrepresentations). But comingling such reviews with reviews collected at the point-of-sale, before the consumer could have received and used the product, renders the entire star rating deceptive. See *United States v. Phillip Morris USA Inc.*, 566 F.3d 1095, 1128 (D.C. Cir. 2009) ("[E]ven partially true statements can be actionable fraud if intentionally misleading as to facts.").

authentic reviews from customers who had received and had a chance to use the products, the complaint charges Sitejabber with deceptive conduct in violation of section 5.

Sitejabber is also accused of having provided its retail clients with widgets by which the retailers could embed the IFPR-derived product ratings on their own websites. These widgets had no purpose other than to represent that those product ratings were derived from the reviews of consumers who had received and had a chance to use the product in question. This representation was false given that the ratings were obtained from consumers who had not received the product when they provided the rating. For offering this widget, the complaint charges Sitejabber with a further section 5 violation for providing the means and instrumentalities for the commission of deceptive acts and practices.

Sitejabber's condemned business practices are very different from Rytr's. Rytr provided an AI-powered writing tool which could be used to generate draft consumer reviews.⁵ Although a consumer or business could have used Rytr's tool to generate a false product review, and that false product review could in some circumstances violate section 5's prohibition on deceptive acts or practices, that was not necessarily the case.⁶ Indeed, the Commission did not supply a single example of someone having used Rytr's tool to violate section 5.⁷ A consumer also could have used Rytr's tool to generate an initial draft of a perfectly honest consumer review.⁸ The mere fact that someone could use a product to commit fraud does not make that product the means and instrumentalities to commit fraud.⁹ In my view, the provision of a product or service with potential unlawful uses is not the provision of the means and instrumentalities to violate section 5 unless (1) the instrumentality in question "has no or de minimis legal use";¹⁰ (2) the provider of the instrumentality had the purpose of facilitating the section 5 violation;¹¹ or (3) the provider "knows, or has reason to know, that the person to whom the product or service was supplied will use it to violate section 5."¹²

Whereas Rytr's review generator tool satisfied none of those requirements, the

allegations in the complaint here show that Sitejabber's product satisfies all three. First, there is no legitimate purpose for a widget displaying an instant product review rating. No reasonable consumer would be interested in a one-to-five-star product rating derived from reviews left by other consumers who had not yet received or used the product.¹³ When a consumer views a product rating, he reasonably assumes that the rating is based on reviewers' experiences with the product, not with the purchasing process. Second, because the widgets had no use other than to deceive consumers, we can reasonably infer that Sitejabber knew that every single one of its clients was using them for that purpose. Finally, there is ample evidence that Sitejabber's very purpose in offering the widgets was to assist in the deception of consumers. The widgets were nothing but an extension of the same deception that Sitejabber was carrying out on its own website using the same deceptive ratings and on behalf of the same clients.

I therefore concur in the Commission's complaint and proposed consent order against Sitejabber.

[FR Doc. 2024-26711 Filed 11-15-24; 8:45 am]

BILLING CODE 6750-01-P

UNITED STATES AGENCY FOR GLOBAL MEDIA

Performance Review Board Members

AGENCY: United States Agency for Global Media.

ACTION: Notice.

SUMMARY: The United States Agency for Global Media (USAGM) announces the members of its SES Performance Review Board (PRB).

ADDRESSES: USAGM Office of Human Resources, 330 Independence Ave. SW, Washington, DC 20237.

FOR FURTHER INFORMATION CONTACT: Ellona Fritschie, Senior Advisor, at efritschie@usagm.gov or (202) 920-2400.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314, USAGM publishes this notice announcing the individuals who will serve as members of the PRB for a term of one year. The PRB is responsible for: (1) reviewing performance appraisals and ratings of Senior Executive Service and Senior

Level members; and (2) making recommendations on other performance management issues, such as pay adjustments, bonuses, and Presidential Rank Awards. The names, position titles, and appointment types of each member of the PRB are set forth below:

1. Grant Turner, Chief Risk Officer, Career SES
2. David Kotz, Chief Management Officer, Career SES
3. Sylvia Rosabal, Director, Office of Cuban Broadcasting, Non-Career SES
4. Adrienne Fleming, Deputy Director, TSI, Career SES

Dated: November 13, 2024.

Armanda Matthews,

Program Support Specialist, U.S. Agency for Global Media.

[FR Doc. 2024-26849 Filed 11-15-24; 8:45 am]

BILLING CODE 8610-01-P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No.: 111132024-1111-05]

Senior Executive Service Performance Review Board Membership

AGENCY: Gulf Coast Ecosystem Restoration Council (GCERC).

ACTION: Notice of Performance Review Board (PRB) appointments.

SUMMARY: This notice announces the members of the Senior Executive Service (SES) Performance Review Board. The PRB is comprised of a Chairperson and a mix of state representatives and career senior executives that meet annually to review and evaluate performance appraisal documents and provide a written recommendation to the Chairperson of the Council for final approval of each executive's performance rating, performance-based pay adjustment, and performance award.

DATES: The board membership is applicable beginning on January 1, 2024 and ending on December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Mary S. Walker, Executive Director, Gulf Coast Ecosystem Restoration Council, telephone 504-210-9982.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the persons named below have been selected to serve on the PRB:

Gulf Coast Ecosystem Restoration Council

Walker, Mary S., Executive Director, Mary.Walker@restorethegulf.gov, 504-210-9982

⁵ Ferguson Rytr Dissent at 1-2.

⁶ *Id.* at 6-7.

⁷ *Id.* at 2.

⁸ *Id.* at 7.

⁹ *Id.* at 5-6.

¹⁰ *Id.* at 6.

¹¹ *Id.* at 7-9.

¹² *Ibid.*

¹³ FTC Policy Statement on Deception, 103 F.T.C. 174, 175 (1984), <https://www.ftc.gov/legal-library/browse/ftc-policy-statement-deception>, appended to *In Re Cliffdale Assocs., Inc.*, 103 F.T.C. 110 (1984) (in determining whether a practice is deceptive "we examine the practice from the perspective of a consumer acting reasonably").