

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

_____)	
In the Matter of)	
)	
WEBTV NETWORKS, INC.,)	DOCKET NO. C-3988
 a corporation.)	
)	
_____)	

COMPLAINT

The Federal Trade Commission, having reason to believe that WebTV Networks, Inc., a corporation (“respondent”), has 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 WebTV Networks, Inc. is a California corporation with its principal office or place of business at 1065 La Avenida, Mountain View, CA 94043.
2. Respondent has patents pending for the technology and design of WebTV set-top boxes, devices used in conjunction with a telephone line, a television, and respondent’s Internet service to connect to the Internet. Respondent licenses the WebTV set-top box technologies to various companies, including Sony, Philips Electronics, and Mitsubishi, which manufacture and sell WebTV set-top boxes. Respondent sells the Internet service called WebTV Network, for which it charges a monthly fee.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has disseminated or has caused to be disseminated advertisements and promotional materials for the WebTV Network Internet service and WebTV set-top boxes, including but not limited to the attached Exhibits A through G. These advertisements and promotional materials contain the following statements:

- A. (Exhibit A: advertising template)
 - “WebTV service offers
 - ! Complete and affordable Internet access

. . . .

[Fine print disclosure]: WebTV Network service is not available as a local call everywhere. Toll charges may apply.”

B. (Exhibit B: brochure)

“And you’ll pay a flat fee of \$19.95 a month with no extra charges for long distance e-mail.**

. . . .

With WebTV you can turn your TV into a powerful rocket ship any time you feel like exploring new places and ideas. There’s virtually no place on earth you can’t travel to; no person, place or thing you can’t easily find out more about. . . . WebTV even offers free automatic service upgrades that keep the Network as up to date as possible.

. . . .

[Fine print disclosure on back of brochure]: **WebTV Network service is not available as a local call everywhere. Toll charges may apply.”

C. (Exhibit C: brochure)

“[Consumer] [Bill M] ‘Now that WebTV came along, heck, who needs a computer. For almost a fraction of the cost, I can visit any city in the world, learn facts and even send e-mail. And best of all, I won’t have to worry about software upgrades since WebTV handles that.’”

D. (Exhibit D: promotional video)

“[Will Shriner]: With WebTV, the Internet is finally fast, easy, and affordable. You don’t need a computer. There is no software to install. Plus you always get free automatic upgrades.

. . . .

For entertainment, information, communication, and help just getting things done, WebTV is all you need.

. . . .

To stay connected with family and friends, WebTV offers e-mail. You can even make new friends all over the world without paying expensive long distance phone bills.

[Visual disclosure (fine print)]: WebTV Network service is not available as a local call everywhere. Toll charges may apply.

. . . .

Its only \$19.95. Surf the Net as often as you want on WebTV.

[Visual disclosure (large)]: Monthly subscription only \$19.95

[Visual disclosure (fine print)]: WebTV Network Service is not available as a local call everywhere. Toll charges may apply.]”

E. (Exhibit E: letter to consumers accompanying promotional video) (emphasis in original)

“WebTV brings all the incredible entertainment and information of the Internet right to your TV.

. . . .

Buy your WebTV Internet Terminal at your local consumer electronics store for about ~~\$250~~. Then, pay a flat rate of only \$19.95 a month to enjoy easy access to the Internet right on your TV.*

. . . .

But ultimately, the best reason of all to subscribe to WebTV is that it opens up new worlds of entertainment, information and fun like nothing else can. With easy access to the Internet on your TV, you can visit thousands of fascinating web sites, quickly research almost any topic, person, place or thing that catches your fancy, even receive e-mail with people across the street or across the ocean.

. . . .

The Internet is one of the most important innovations of our time, and its incredible content should be readily available to anyone and everyone. With a WebTV Internet Terminal from Sony or Philips Magnavox and a low-cost subscription to WebTV*, it finally is.

. . . .

[Fine print disclosure on back of letter]: *WebTV Network Service is not available as a local call everywhere. Toll charges may apply.”

F. (Exhibit F: television infomercial)

“[Moderator/Announcer (Wil Shriner)]: You have heard of e-mail? That’s electronic mail that lets you send and receive messages anywhere in the world, without the hassle of stamps or the cost of long distance calls.

. . . .

[Announcer (Unidentified)]: And you don’t need a computer. . . . Whether it's entertainment, communication or education, it's all on WebTV.

. . . .

[Visual disclosure (large)]: Only 19.95 a month.

[Announcer (Unidentified)]: Then, get hooked up to the WebTV Network and surf all you want for only \$19.95 a month.

[Visual disclosure (fine print, no corresponding audio)] WebTV Network Service is not available as a local call everywhere. Toll charges may apply.

. . . .

[Shriner]: Great. So, Christina, you know, one of the things I like to do is chat. You can go on and you can find anything you want to talk about, any subject matter, you go into a chat room. I understand you like that as well.

[Consumer (Christina)]: Yeah, I do, because it saves a lot of money on phone bills. I call up my friend in Washington, talk for about a minute or two and tell him to go downstairs in his dorm, go online, and we start chatting.

. . . .

[Shriner]: I mean, having WebTV is like having a huge resource library, the Internet, the World Wide Web, all of that is available for you right now.

. . . .

[Consumer (Anita)]: Whatever you are into, it's there.

. . . .

[Shriner]: . . . So, Pete and Cammi have an interesting story. They knew each other, then they moved apart, and now they have come back together to get married, all with the help of WebTV. . . . So, you both have WebTV boxes. . . . The living 500 miles apart, does it make you feel closer? How much money do you think you've saved on phone bills?

[Consumers (Pete and Cammi)] [Cammi]: Oh, on our phone bill? Hundreds of dollars.”

G. (Exhibit G: Web page)

“6. Why WebTV instead of a computer?

WebTV offers a variety of special entertainment features you can't get on a computer, only TV. Unlike a computer, WebTV comes with free service upgrades so you don't have to worry about new software. . . .

. . . .

25. What is the cost of service, and what are the terms of commitment?

The WebTV Network is a flat rate of \$19.95 per month and WebTV Plus Network is \$24.95 a month. . . .

. . . .

40. Looks like WebTV now supports a lot of Internet standards. Is this significant?

Absolutely. The Internet changes constantly, and WebTV is committed to enhancing the user experience by regularly delivering new functionality. WebTV's free periodic service upgrades keep the WebTV Network current with Internet standards. . . .”

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

- A. The WebTV set-top box is equivalent to a personal computer with respect to its Internet-related performance;
- B. The WebTV set-top box and respondent's Internet service provides access to all

of the Internet's content, including all of the entertainment and information available on the Internet; and

- C. Respondent's upgrades to the WebTV set-top box and respondent's Internet service keeps users current with the latest Internet technology.

6. In truth and in fact:

- A. The WebTV set-top box is not equivalent to a personal computer with respect to its Internet-related performance. For example, WebTV set-top box users are unable to download, store, or run software available on the Internet, display certain Web pages or play certain Web files, or open email attachments in certain common formats;
- B. The WebTV set-top box and respondent's Internet service do not provide access to all of the Internet's content, including all of the entertainment and information available on the Internet. For example, WebTV users are unable to access files on Web sites that use popular formats or programming languages, including popular Internet technologies for Web site audio, video, interactivity, and multimedia used for online entertainment and information communication; and
- C. Respondent's upgrades to the WebTV set-top box and respondent's Internet service have not kept users current with the latest Internet technology. For example, upgrades have failed to provide certain commonly used Internet technologies for audio, video, interactivity, and multimedia.

Therefore, the representations set forth in Paragraph 5 were, and are, false or misleading.

7. In its advertising and sale of the WebTV Network Internet service and its advertising of WebTV set-top boxes, respondent has represented, expressly or by implication, that the total cost to consumers of using the WebTV Network Internet service and the WebTV set-top box is the initial purchase price of the WebTV set-top box hardware plus the flat monthly subscription fee for its WebTV Network Internet service. Respondent has failed to disclose adequately before purchase that a significant percentage of U.S. consumers will incur toll charges while connected via the WebTV Network Internet service to the Internet. This fact would be material to those consumers in their purchase or use of the service or product. The failure to adequately disclose this fact, in light of the representation made, was, and is, a deceptive practice.

8. The acts and practices of respondent 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 eighth day of December, 2000, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary