

C00-1806 L

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,  
Plaintiff,

v.

CYBERSPACE.COM, LLC,  
FRENCH DREAMS,  
COTO SETTLEMENT,  
ELECTRONIC PUBLISHING VENTURES,  
LLC,  
OLYMPIC TELECOMMUNICATIONS,  
INC.,  
IAN EISENBERG,  
and  
CHRIS HEBARD,  
Defendants.

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AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

COMPLAINT FOR  
INJUNCTION AND OTHER  
EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("Commission"), by its undersigned attorney,  
alleges:

1. This is an action under Sections 5(a) and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a) and 53(b), to secure injunctive and other equitable relief, including rescission of contracts, restitution, and disgorgement for defendants' deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the marketing and sale of Internet services.

1 **JURISDICTION AND VENUE**

2 2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a) and  
3 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345.

4 3. Venue in this District is proper under 15 U.S.C. § 53(b), and 28 U.S.C.  
5 §§ 1391(b) and (c).

6 **PLAINTIFF**

7 4. Plaintiff, Federal Trade Commission, is an independent agency of the United  
8 States Government created by statute. 15 U.S.C. §§ 41-58. The Commission enforces Section  
9 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or  
10 affecting commerce. The Commission is authorized to initiate federal district court proceedings  
11 to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in  
12 each case, including restitution for injured consumers. 15 U.S.C. § 53(b).

13 **DEFENDANTS**

14 5. Defendant Cyberspace.com, LLC, is a limited liability company formed in  
15 Delaware. Cyberspace.com transacts or has transacted business in the Western District of  
16 Washington.

17 6. Defendant French Dreams is an owner of defendant Electronic Publishing  
18 Ventures, LLC. French Dreams transacts or has transacted business in the Western District of  
19 Washington.

20 7. Defendant Coto Settlement, a Cook Island Trust, is an owner of defendant  
21 Electronic Publishing Ventures, LLC. Coto Settlement transacts or has transacted business in the  
22 Western District of Washington.

23 8. Defendant Electronic Publishing Ventures, LLC, ("EPV") is a limited liability  
24 company formed in Delaware. EPV owns Cyberspace.com. EPV transacts or has transacted  
25 business in the Western District of Washington.

26 9. Defendant Olympic Telecommunications, Inc. is a corporation formed in  
27 Delaware, with offices at 2722 Eastlake Avenue, Seattle, Washington. Olympic  
28 Telecommunications transacts or has transacted business in the Western District of Washington.



1 and "Invoice Number." The face of the invoice-like form includes, under "Description", the  
2 letters "ISP-SUB." Nothing on the face of the check or the invoice-like form alerts the consumer  
3 that depositing or cashing the check signs the consumer up for defendants' Internet service at  
4 \$19.95 or \$29.95, plus taxes.

5 16. Many consumers process defendants' checks as they do all other checks they  
6 receive, and do not know that they are signing up for Internet access at a monthly fee.

7 17. Defendants claim that they send those who deposit or cash their check a compact  
8 disc ("CD") with software for using the Internet service. However, because many consumers do  
9 not know they have been signed up for Internet service, they have no recollection of receiving the  
10 CD.

11 18. At some point, consumers discover that defendants have signed them up for  
12 defendants' Internet service and are charging them monthly. In many instances, because of the  
13 unexpected placement of defendants' charges on their local telephone bills, many consumers  
14 discover they have inadvertently paid the charges for many months despite the fact that they  
15 never used defendants' Internet service.

16 19. When consumers do notice the charges, they contact defendant Olympic  
17 Telecommunications, whose telephone number often appears on their telephone bill next to the  
18 charge from defendant Cyberspace, to complain that the monthly charges are unauthorized. In  
19 many instances, a customer service representative from defendant Olympic refers the caller to  
20 defendant Cyberspace. However, the caller is often unable to reach defendant Cyberspace by  
21 telephone or otherwise to find out about the unauthorized charge. When they do reach defendant  
22 Cyberspace, consumers learn, usually for the first time, that they have been signed up for  
23 defendants' Internet service at a monthly charge of \$19.95 or \$29.95, plus taxes.

24 20. Defendants' policy is that consumers can cancel the Internet service at any time.  
25 However, consumers experience numerous difficulties in trying to cancel their account.  
26 Consumers try to cancel via defendants' automatic cancellation telephone system, where, in  
27 many instances, they experience difficulty and are unable to cancel. In other instances,

1 defendants promise to cancel the account for the future, yet defendants' charges continue to  
2 appear on customers' subsequent telephone bills.

3 21. Defendants' policy is to provide a full refund if a subscriber cancels the account  
4 within 30 days of depositing or cashing the check. However, consumers are unable to cancel  
5 within the 30-day full refund period because defendants' charges first arrive well after the 30-day  
6 period has elapsed. Even when consumers are able to cancel within the 30-day period, in many  
7 instances defendants do not provide a full refund.

8 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

9 22. As set forth below, defendants have violated Section 5(a) of the FTC Act, 15  
10 U.S.C. § 45(a), in connection with the offer, sale of, and billing for Internet service.

11 **COUNT ONE**

12 23. In numerous instances, defendants have represented, expressly or by implication,  
13 that consumers who receive defendants' charges on a bill are legally obligated to pay for those  
14 charges.

15 24. In truth and in fact, in numerous instances, consumers have not agreed to be  
16 charged and are not legally obligated to pay defendants' charges.

17 25. Therefore, defendants' representation, as alleged in Paragraph 23, is false and  
18 deceptive, and violates Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

19 **COUNT TWO**

20 26. In numerous instances, defendants have represented, expressly or by implication,  
21 to consumers that defendants' solicitation check is a refund, rebate, receivable, or other payment  
22 for services based on a prior or ongoing business relationship.

23 27. In truth and in fact, the solicitation check is not a refund, rebate, receivable, or  
24 other payment for services based on a prior or ongoing business relationship; rather, it is a check  
25 which, when cashed or deposited, defendants use to initiate a business relationship by signing up  
26 the consumer for defendants' Internet service billed monthly on the consumer's local telephone  
27 bill.

1 28. Therefore, defendants' representation, as alleged in Paragraph 26, is false and  
2 deceptive, and violates Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

3 **COUNT THREE**

4 29. In numerous instances, defendants have represented, expressly or by implication,  
5 that consumers who receive defendants' solicitation check for \$3.50 may deposit or cash the  
6 check.

7 30. In truth and in fact, defendants have failed to disclose clearly and conspicuously  
8 the material conditions associated with depositing or cashing defendants' solicitation check,  
9 including, but not limited to, the conditions that upon depositing or cashing the check,  
10 defendants:

11 (a) will sign up the consumer for defendants' Internet service; and

12 (b) will place a monthly charge on the consumer's telephone bill for defendants'  
13 Internet service.

14 31. In view of defendants' failure to disclose clearly and conspicuously the material  
5 information set forth in Paragraph 30, above, defendants' representation in Paragraph 29 is false  
16 and deceptive, and violates Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

17 **CONSUMER INJURY**

18 32. Consumers in many areas of the United States have suffered substantial monetary  
19 loss as a result of defendants' unlawful acts or practices. In addition, defendants have been  
20 unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court,  
21 defendants are likely to continue to injure consumers and harm the public interest.

22 **THIS COURT'S POWER TO GRANT RELIEF**

23 33. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers the Court to grant  
24 injunctive and other equitable ancillary relief, including consumer redress, disgorgement, and  
25 restitution, to prevent and remedy violations of any provision of law enforced by the  
26 Commission.

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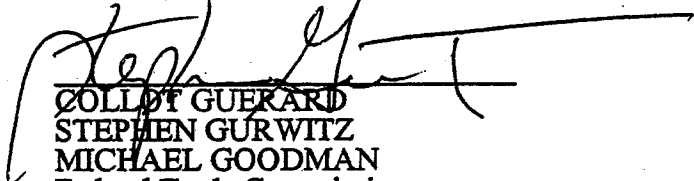
**PRAYER FOR RELIEF**


Wherefore, Plaintiff requests that this Court:

1. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief;
2. Permanently enjoin defendants from violating the FTC Act, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act, including but not limited to, rescission of contracts, refund of monies paid, and disgorgement of ill-gotten monies; and
4. Award Plaintiff the costs of bringing this action, as well as such other and additional equitable relief as the Court determines to be just and proper.

Dated: Oct 16 2000

Respectfully submitted,

  
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