

Farrell Lines, Inc.
Turkon Container Transport &
Shipping Inc.

Synopsis: The proposed modification would authorize the parties to discuss and agree upon the terms of their individual service contracts, to exchange information regarding such contracts, and to adopt voluntary guidelines with respect to their individual contracts. The modification also deletes reference to tariff filing with the Commission. The parties have requested expedited review.

Agreement No.: 224-201077

Title: Tioga Marine Terminal Sublease Agreement

Parties:

Delaware River Stevedores, Inc.
Tioga Fruit Terminal, Inc.

Synopsis: The proposed agreement is a sublease arrangement conveying certain facilities to Tioga Fruit. The agreement runs through March 31, 2003.

Dated: May 14, 1999.

By order of the Federal Maritime Commission.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 99-12655 Filed 5-19-99; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as Ocean Freight Forwarder—Ocean Transportation Intermediaries pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

American Pioneer Shipping LLC, 1308 Centennial Avenue, Suite 116, Piscataway, NJ 08854, Officer: Wenli Jiang, General Manager (Qualifying Individual)

Airlift (U.S.A.), Inc. d/b/a Airlift Container Line, 11099 S. La Cienega Blvd., Suite 151, Los Angeles, CA 90036, Officers: Ganesh Murthy, President, Flavia Russo, Vice President (Qualifying Individual)

Quad City Port Services, Inc., 1634 State Street, Bettendorf, IA 52722, Officer:

Richard R. Weeks, President (Qualifying Individual)
Petcon Air Freight (USA) Inc., 175-01 Rockaway Blvd., Suite 215, Jamaica, NY 11434, Officer: Peter Yu, President (Qualifying Individual)
Airgate International (SFO) Corp., 484 Grandview Drive, S. San Francisco, CA 94080, Officers: Joanna Chan, President Alex Chan, Vice President (Qualifying Individual)
Inter-Florida Container Transport, Inc., 7225 NW 25 Street, Suite 303, Miami, FL 33122, Officer: Mercedes Torres, President (Qualifying Individual)

Dated: May 14, 1999.

Bryant L. VanBrakle,
Secretary.

[FR Doc. 99-12683 Filed 5-19-99; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 9823563 & 9823565]

Dell Computer Corporation and Micron Electronics, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.
ACTION: Proposed consent agreements.

SUMMARY: The consent agreements in these matters settle alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaints that accompany the two consent agreements and the terms of the consent orders—embodied in the consent agreements—that would settle these allegations.

DATES: Comments must be received on or before July 19, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sally Forman Pitofsky or Rolando Berrelez, FTC/S-4429, 601 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3224.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreements containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty

(60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreements, and the allegations in the complaints. Electronic copies of the full text of the consent agreement packages can be obtained from the FTC Home Page (for May 13th, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." Paper copies can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

Summary: The Federal Trade Commission has accepted separate agreements, subject to final approval, from Dell Computer Corporation ("Dell") and Micron Electronics, Inc. ("Micron") (collectively referred to as "respondents"). The proposed consents resolve allegations that respondents created and disseminated computer lease advertisements that violate the Federal Trade Commission Act ("FTC Act"), the Consumer Leasing Act ("CLA"), and Regulation M.

Section 5 of the FTC Act prohibits false, misleading, or deceptive representations or omissions of material information in advertisements. In addition, Congress established statutory disclosure requirements for lease advertising under the CLA and directed the Federal Reserve Board ("Board") to promulgate a regulation implementing such statute—Regulation M. See 15 U.S.C. 1667-1667e; 12 CFR Part 213.

The proposed consent orders have been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

I. Dell and Micron Complaints

A. FTC Act Violations—Lease Advertising

1. Failure to Disclose Adequately that Transaction Advertised is a Lease.

Count I of the Dell complaint alleges that respondent Dell, in lease advertisements, represents that consumers can purchase the advertised computer systems for the monthly payment amounts prominently stated in the advertisements. These advertisements allegedly do not adequately disclose that each advertised monthly payment amount is a component of a lease offer. The Dell complaint alleges that the existence of this additional information would be material to consumers in deciding whether to lease or purchase a computer from Dell. Count I, therefore, alleges that the failure to disclose adequately this additional information, in light of the representation made, was, and is, a deceptive practice in violation of Section 5 of the FTC Act.

2. Failure to Disclose, and/or Failure to Disclose Adequately, Lease Terms.

Count II of the Dell complaint and Count I of the Micron complaint allege that respondents' lease advertisements represent that consumers can obtain the advertised computer systems at the terms prominently stated in the advertisements, including but not limited to the monthly payment amount. These advertisements allegedly fail to disclose, and/or fail to disclose adequately, additional terms pertaining to the lease offers, such as the total amount of any payments due at lease inception and/or the term of the lease. The existence of this additional information would be material to consumers in deciding whether to lease the advertised computer systems from respondents, according to the complaints. These practices, according to the complaints, constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act.

B. CLA and Regulation M Violations

Dell and Micron's lease advertisements also allegedly violate the CLA and Regulation M. According to the complaints, these respondents' computer lease advertisements state a monthly payment amount but fail to disclose, and/or fail to disclose clearly and conspicuously, certain additional terms required by the CLA and Regulation M, including one or more of the following terms: that the transaction advertised is a lease; the total amount due prior to or at consummation or by delivery, if delivery occurs after consummation, and that such amount:

(1) excludes third-party fees, such as taxes, licenses, and registration fees, and discloses that fact or (2) includes third-party fees based on a particular state or locality and discloses that fact and the fact that such fees may vary by state or locality; whether or not a security deposit is required; and the number, amount, and timing of scheduled payments.

Respondents' television, Internet, and/or print disclosures are not clear and conspicuous because they appear in fine print at the bottom of the advertisements. The Dell and Micron complaints, therefore, allege that these practices violate Section 184 of the CLA, 15 U.S.C. 1667c, as amended, and Section 213.7 of Regulation M, 12 CFR 213.7 as amended.

II. Proposed Consent Orders

The proposed consent orders contain provisions designed to remedy the violations charged and to prevent respondents from engaging in similar acts and practices in the future.

Specifically, subparagraph I.A. of the Dell proposed order prohibits Dell from failing to disclose clearly and conspicuously that any advertised lease terms, including but not limited to a monthly payment amount or downpayment, pertain to a lease offer.

Subparagraph I.B. of the Dell proposed order and subparagraph I.A. of the Micron proposed order prohibit respondents, in any lease advertisements, from making any reference to any charge that is part of the total amount due at lease signing or delivery or that no such amount is due, not including a statement of the periodic payment, unless the advertisement also states with equal prominence the total amount due at lease inception. The "equal prominence" requirement prohibits respondents from running deceptive advertisements that highlight low amounts "down," with inadequate disclosures of actual total inception fees. This "Equal prominence" requirement for lease inception fees also is found in Regulation M.

Moreover, subparagraph I.C. of the Dell proposed order and subparagraph I.B. of the Micron proposed order prohibit respondents, in any lease advertisement, from stating the amount of any payment, or that any or no initial payment is required at consummation of the lease, unless the advertisement also states, clearly and conspicuously, all of the terms required by Regulation M, as follows: (1) that the transaction advertised is a lease; (2) the total amount due at lease signing or delivery; (3) whether or not a security deposit is

required; (4) the number, amounts, and timing of scheduled payments; and (5) that an extra charge may be imposed at the end of the lease term where the liability of the consumer at lease end is based on the anticipated residual value of the leased property.

The information required by subparagraphs I.C. and I.B. of the Dell and Micron proposed orders, respectively, must be disclosed "clearly and conspicuously" as defined in the proposed orders. The "clear and conspicuous" definition requires respondents to present such lease information, as applicable, within the advertisement so that an ordinary consumer can read, or hear, and comprehend it. This definition is consistent with the "clear and conspicuous" requirement for advertising disclosures in Regulation M that require disclosures that consumers can see and read (or hear) and comprehend. It is also consistent with prior Commission orders and statements interpreting Section 5 to require that advertising disclosures be readable (or audible) and understandable to reasonable consumers.

Finally, subparagraph I.D. of the Dell proposed order and subparagraph I.C. of the Micron proposed order enjoin respondents from failing to comply in any other respect with Regulation M, 12 CFR 213, as amended, and the CLA, 15 U.S.C. 1667-1667e, as amended.

Like prior Commission orders involving lease advertising, these orders refer to Regulation M and the CLA, as amended. Thus, these orders contemplate that any modification to the advertising disclosure requirements provided in Regulation M or the CLA will be incorporated automatically into those parts of the orders referencing those laws.

The purpose of this analysis is to facilitate public comment on the proposed orders. It is not intended to constitute an official interpretation of the agreements and proposed orders or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99-12660 Filed 5-19-99; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 9823633]

Fitness Quest, Inc., et al; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.