

Analysis of Proposed Consent Order to Aid Public Comment

In the Matter of Philips Electronics North America Corporation, File No. 022 3095

The Federal Trade Commission has accepted an agreement to a proposed consent order with Philips Electronics North America Corporation ("Philips"). Philips manufactures, advertises, labels, offers for sale, sells, and distributes consumer electronic equipment and other electronic products to the public. Through its division, Philips Consumer Electronics North America, Philips manufactures, advertises, labels, offers for sale, sells, and distributes computer peripheral equipment, such as CD-rewritable drives and computer monitors.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns cash rebate offers that Philips made to consumers who purchased computer peripheral products. The complaint alleges that respondent engaged in deceptive and unfair practices relating to these rebate offers. Specifically, the complaint alleges that respondent falsely represented that it would deliver cash rebates to purchasers of its computer peripheral products within eight weeks. For its promotions offered through its division, Philips Consumer Electronics North America, from January 2001 to January 2002, over fifty thousand consumers experienced delays of up to six months or more. The rebates at issue ranged from \$20 to \$100 in value.

The complaint further alleges that, in the advertising and sale of its computer peripheral products, Philips offered to deliver rebates in eight weeks to consumers who purchased a Philips computer peripheral product and submitted a rebate form with proof of purchase. After receiving rebate requests in conformance with this offer, Philips unilaterally extended the time period in which it would deliver the rebates to consumers without consumers agreeing to this extension of time. According to the complaint, this constituted an unfair business practice.

The proposed consent order contains provisions designed to prevent Philips from engaging in similar acts and practices in the future. Part I applies to Philips' marketing of personal computer or personal computer-related product sold to consumers, including but not limited to, monitors, speakers, sound cards, CD-RW drives, DVD+RW drives, and multimedia projectors. With regard to these products, Part I.A. prohibits the respondent from misrepresenting the time in which it will mail any cash rebate or any credit towards future purchases. Parts I.B. and I.C. prohibit Philips from failing to provide any such rebate within the time specified, or if no time is specified, within thirty days.

Part I.D. prohibits the respondent from violating the Federal Trade Commission's Trade Regulation Rule Concerning Mail or Telephone Order Merchandise (the "Mail Order Rule") if it offers rebates in the form of merchandise. Part I.E. addresses rebates in the form of services or other consideration that the Mail Order Rule does not cover. That provision requires the respondent to provide the rebate in the time specified, or within thirty days if no time is specified, unless the respondent offers the purchaser the option of consenting to the delay or canceling the rebate request and promptly receiving reasonable cash compensation instead of the promised rebate. Part I.F. requires that the company not "misrepresent, in any manner, expressly or by implication, any material terms of any rebate program, including the status of or reasons for any delay in providing any rebate."

Part II of the proposed order is a redress provision which requires the company to pay out all valid rebates requests that are due or past due as of the date of service of the order. This provision also requires the respondent to send a rebate to any eligible consumer who contacts the respondent or the FTC for a period of 60 days after service of the order.

Parts III through VI of the proposed order are reporting and compliance provisions. Part VII is a provision "sunsetting" the order after twenty years, with certain exceptions.

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