

## **Analysis of Proposed Consent Order to Aid Public Comment**

### ***In the Matter of Tim R. Wofford, individually and as an officer of OKie Corporation, File No. 012 3191***

The Federal Trade Commission has accepted an agreement to a proposed consent order from Tim R. Wofford, an officer of OKie Corporation ("OKie"). OKie did business as Prime Peripherals. Mr. Wofford and OKie advertised, labeled, offered for sale, sold, and distributed computer peripheral products to the public, including Prime Peripherals brand modems, CD-Rom drive kits, and recordable compact disks.

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 respondent and OKie made to consumers who purchased Prime Peripherals computer peripheral products. The complaint alleges that respondent engaged in false advertising and unfair practices relating to these rebate offers. Specifically, the complaint alleges that respondent falsely represented that he would mail cash rebates to purchasers of Prime Peripherals computer peripheral products within either six to eight or eight to ten weeks, or within a reasonable period of time, of respondent's receipt of their requests. In many instances, consumers never received their cash rebates or experienced delays ranging from one to six months.

The complaint also alleges that, in the advertising and sale of Prime Peripherals computer peripheral products, respondent offered that consumers would receive cash rebates if they purchased a Prime Peripherals computer peripheral product and submitted a rebate form with proof of purchase. In making this offer, he did not require consumers to submit a telephone number, fax number, or email address to be eligible to receive the offered cash rebates. In numerous instances, consumers accepted respondent's rebate offer by purchasing those products and submitting rebate forms with proof of purchase. After receiving rebate requests, respondent unfairly modified the terms or conditions of the rebate offer unilaterally by requiring that, in addition to submitting a rebate form with proof of purchase, consumers submit a telephone number, a fax number, and an email address to receive a rebate. In breach of the original rebate offer, respondent rejected numerous rebate requests from consumers because they did not submit a telephone number, a fax number, and/or an email address.

Finally, the complaint alleges that respondent represented that purchasers of Prime Peripherals computer peripheral products would receive cash rebates if they purchased those products and submitted a rebate form with proper documentation, yet failed to disclose that consumers were required to possess and disclose their telephone number, fax number, and email address on a rebate form to receive those cash rebates. The complaint alleges that his failure to disclose these facts was a deceptive practice.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits respondent from failing to disclose all terms, conditions, or other limitations of a rebate offer on the rebate form. It also requires the respondent to disclose in any rebate advertising that the rebate offer requires consumers to disclose a fax number and/or email address on their rebate form if such is the case. Part I of the proposed order also prohibits respondent from misrepresenting the time in which any cash rebate, or rebate in the form of credit towards future purchases, will be mailed to consumers. It also prohibits respondent from failing to provide such rebates within the time specified, or if no time is specified, within thirty days.

Part I of the proposed order also prohibits respondent from violating any provision of the Federal Trade Commission's Trade Regulation Rule Concerning Mail or Telephone Order Merchandise (the "Mail Order Rule") in connection with rebates in the form of merchandise. Among other things, the Mail Order Rule prohibits marketers from failing to provide rebates in the form of merchandise

within the time they specify for delivery, or if no time is specified, within thirty days, unless they offer consumers the option of consenting to a delay or canceling the rebate request and promptly receiving reasonable cash compensation instead of the merchandise originally offered. Finally, Part I of the proposed order similarly prohibits respondent from failing to provide rebates in the form of services or any other consideration (other than cash, credit towards future purchases, or merchandise) within the time he specifies for delivery, or if no time is specified, within thirty days, unless he offers consumers the option of consenting to a delay or canceling the rebate request and promptly receiving reasonable cash compensation instead of the rebate originally offered.

Parts II through IV of the proposed order are reporting and compliance provisions. Part V 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.