

In the Matter of UrthBox, Inc., and Benham Behrouzi

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order as to UrthBox, Inc. (“UrthBox”) and Benham Behrouzi (“respondents”).

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

This matter involves respondents’ endorsement and marketing practices relating to UrthBox’s snack box subscription service. UrthBox has offered consumers monthly subscriptions (one-, three-, and six-month subscriptions) to receive its snack boxes. Urthbox has required its customer to pre-pay the entire cost of the subscription term.

The complaint alleges that respondents violated Section 5(a) of the FTC Act by misrepresenting that positive customer reviews of UrthBox and its snack boxes on the Better Business Bureau’s website and other third-party websites reflected the independent experiences or opinions of impartial customers, and by deceptively failing to disclose that some of those customers received compensation, including free snack boxes, to post those positive reviews. The complaint also alleges that respondents violated Section 5(a) of the FTC Act and Section 4 of the Restore Online Shoppers Confidence Act (“ROSCA”) by failing to adequately disclose key terms of its “free” snack box offer to prospective customers. Specifically, when the free trial period expired, UrthBox would automatically enroll consumers in a six-month subscription plan and would charge them the total amount owed for six months of shipments of snack boxes. The complaint also alleges that respondents violated ROSCA by failing to obtain consumers’ express informed consent prior to charging them for that ongoing subscription.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct.

Part I prohibits misrepresenting an endorser of any good or service is an independent user or ordinary consumer of the good or service.

Part II prohibits respondents from making misrepresentations in connection with the marketing or sale of any good or service with a negative option feature. The order defines the term “Negative Option Feature.”

Part III prohibits any representation about any consumer, reviewer, or other endorser of any good or service without disclosing, clearly and conspicuously, and in close proximity to that representation, any unexpected material connection between such endorser and (1) any respondent, (2) any other individual or entity affiliated with the good or service, or (3) the good

or service. The order defines the terms “Clearly and Conspicuously” and “Unexpected Material Connection.”

Part IV requires respondents to take all reasonable steps to remove any demonstration, review, or endorsement, by any endorser with a material connection to any respondent, of any good or service currently viewable by the public that does not comply with Provisions I and III.

Part V requires respondents, when they use endorsers to advertise or sell a good or service, to take certain steps to make sure the endorsements comply with Parts I and III of the order. Such steps include clearly notifying endorsers of their representation and disclosure responsibilities and creating a monitoring system to review endorsements and disclosures.

Part VI requires respondents to make certain disclosures when they market or sell any good or service with a negative option feature.

Part VII prohibits respondents from using billing information to obtain payment for a good or service with a negative option feature without first obtaining the consumer’s express informed consent to do so. The order describes the steps respondents must take to obtain that expressed informed consent and also defines the term “Billing Information.”

Part VIII requires respondents to provide consumers with a simple mechanism to avoid charges for a good or service with a negative option feature. The order describes what constitutes a simple mechanism, including that such mechanism must not be difficult, costly, confusing, or time consuming, and must be at least as simple as the mechanism the consumer used to initiate the charge.

Parts IX and X require the corporate respondent, UrthBox, Inc., to pay \$100,000 to the Commission, which the Commission will use to administer a fund for relief, including consumer redress unless direct redress to consumers is impracticable.

Part XI requires respondents to provide customer information to the Commission so that it may efficiently administer consumer redress.

Parts XII to XVI are reporting and compliance provisions. **Part XII** requires respondents to distribute the order to certain persons and submit signed acknowledgments of order receipt. **Part XIII** requires respondents to file compliance reports with the Commission, and to notify the Commission of bankruptcy filings or changes in corporate structure that might affect compliance obligations. **Part XIV** contains recordkeeping requirements for personnel records, advertising and marketing materials, and all records necessary to demonstrate compliance with the order. **Part XV** contains other requirements related to the Commission’s monitoring of the respondents’ order compliance. **Part XVI** provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

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