

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

NATIONAL FLOORS DIRECT, INC., a corporation.

DOCKET NO. C-4686

COMPLAINT

The Federal Trade Commission, having reason to believe that National Floors Direct, Inc. (“Respondent”) has violated the Consumer Review Fairness Act of 2016, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent National Floors Direct, Inc. (“NFD”) is a Massachusetts corporation with its principal office or place of business at 100 Messina Drive, Braintree, Massachusetts 02184. NFD sells and installs carpeting and flooring in the northeastern United States.
2. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

Course of Conduct

3. Between approximately July 2016 and April 2018, NFD used, in its form contracts offered to thousands of customers in the course of selling its goods and services in the states of Massachusetts, Rhode Island, and New Hampshire, the following provision:

Non-Disparagement: National Floors Direct takes customer service very seriously. We want all of our customers to be 100% satisfied. We also take our reputation very seriously. By signing this purchase order you are agreeing, under penalty of civil suit, for an amount not to exceed three times the monetary value of this order, plus attorney’s fees for National Floors Direct, not to publicly disparage or defame National Floors Direct in any way or through any medium.

A copy of NFD's flooring purchase order "Additional Terms and Conditions" that includes this paragraph is attached as Exhibit A hereto. NFD's form contracts were in effect on or after December 14, 2017.

VIOLATION OF THE CONSUMER REVIEW FAIRNESS ACT

4. The Consumer Review Fairness Act of 2016 ("CRFA"), Pub. L. No. 114-258, 15 U.S.C. § 45b, was enacted on December 14, 2016. As of March 14, 2017, Section 2(b) of the CRFA renders void, and Section 2(c) of the CRFA prohibits the offering of, provisions in form contracts that: prohibit or restrict individual consumers' ability to communicate reviews, performance assessments, and similar analyses about a seller's goods, services, or conduct; or that impose a penalty or fee against individual consumers who engage in such communications. 15 U.S.C. §§ 45b(a)(2), 45b(b)(1), and 45b(c).

5. The Commission is authorized to enforce Section 2(c) of the CRFA in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act, 15 U.S.C. §§ 41-58, were incorporated into and made a part of the CRFA. 15 U.S.C. § 45b(d)(2)(A). The Commission's enforcement authority under the CRFA applies to contracts in effect on or after December 14, 2017. 15 U.S.C. § 45b(i)(2).

6. Pursuant to 15 U.S.C. § 45b(d)(1), a violation of 15 U.S.C. § 45b(c) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under Section 18(a)(1)(B) of the FTC Act, 15 U.S.C. § 57a(a)(1)(B).

Count I

7. As described in Paragraph 3 of this Complaint, Respondent has offered, in the course of selling its goods and services, form contracts, as that term is defined in 15 U.S.C. § 45b(a)(3), that contained a provision made void by 15 U.S.C. § 45b(b)(1).

8. Therefore, the acts and practices set forth in Paragraph 3 of this Complaint occurring on or after March 14, 2017, violated Section 2(c) of the CRFA, 15 U.S.C. § 45b(c).

THEREFORE, the Federal Trade Commission this fourteenth day of August, 2019, has issued this Complaint against Respondent.

By the Commission.

April J. Tabor
Acting Secretary

SEAL: