

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of

COMPUSERVE, INC., a corporation.

DOCKET NO. C-3789

COMPLAINT

The Federal Trade Commission, having reason to believe that CompuServe, Inc. ("CompuServe" or "respondent") has violated the provisions of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 41-58, as amended, as well as the Electronic Fund Transfer Act ("EFTA"), 15 U.S.C. §§ 1693-1693r, as amended, and its implementing Regulation E, 12 C.F.R. § 205, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. CompuServe is an Ohio corporation with its principal office or place of business at 5000 Arlington Centre Boulevard, Columbus, Ohio 43220-0212.
2. CompuServe has developed, advertised, offered for sale, sold, and distributed to the public its online service for personal computer users. Through its online service, CompuServe provides consumers with a range of options including electronic mail, interactive magazines and newspapers, transactional services, and access to the Internet.
3. CompuServe has been and is now engaged in the regular practice of making "electronic fund transfer[s]" from "consumer" "account[s]" as those terms are defined in the EFTA and its implementing Regulation E.
4. The acts and practices of CompuServe alleged in this complaint have been in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act.

COMPUSERVE'S COURSE OF BUSINESS

5. CompuServe has disseminated or has caused to be disseminated advertisements for its online service through various media including, but not limited to, print, television, the Internet, direct mail, promotional materials, and instructional materials. These advertisements include, but are not limited to, the attached Exhibits A and B, which contain the following statements:

Exhibit A

Take a joy ride on the information superhighway! . . . Courtesy of your friends at CompuServe®. C'mon, your first 10 hours are FREE!

* * *

Hop on the information highway with CompuServe for 10 free hours of fun, news, games, live chat, entertainment, and lots more!

* * *

Get more out of life, work, and play -- and get 10 hours plus
your first month's membership FREE!

* * *

Dear friend

[Y]ou can take a 10-hour free ride on that highway right now
with CompuServe®. All you need is your computer, a modem,
and the two free CompuServe disks included with this letter.

* * *

You really have nothing to lose. You've got everything you need right now. Your first
month's membership is free. And during your first month, you and your family will have
10 free hours to explore CompuServe and the world of the Internet. If you decide that
CompuServe isn't for you, you can cancel at any time with no obligation whatsoever.

The advertisement contains an insert card attached to which are two computer disks that
permit access to CompuServe's online service. On the reverse side of this card, a bold-
face statement provides:

Go now. Go fast. Go free.

To start enjoying your 10 free hours on CompuServe, use the
two disks on the back of this card

A fine-print statement at the bottom of the card provides:

Please have your credit card ready. If you use more than ten
hours during your first month's free membership, you will be
billed \$2.95 per hour by CompuServe. Thereafter you will be
billed \$9.95 per month for membership, plus \$2.95 for each
hour after 5 hours.

Exhibit B

GET CONNECTED TODAY FOR FREE! COMPUSERVE
CONNECTS YOU TO A WORLD OF EDUCATION, FUN,
BUSINESS COMMUNICATION AND MORE.

* * *

CONNECT TO COMPUSERVE TODAY AND TRY
VIRTUALLY EVERYTHING WE OFFER - ON US.

* * *

EXPLORE COMPUSERVE FOR ONE MONTH FREE!

For a monthly membership fee of \$9.95 US*, you and your family have access to a
phenomenal world of education, entertainment and communication. And it's easy to
begin. All you need is your home computer, your regular phone line and a modem. Plus,

to help you get started, we'll give you one FREE month of membership (a \$9.95 US* value) plus 10 FREE* hours your first month to explore virtually everything we offer.

The advertisement contains a statement at the bottom of the final panel, in fine print, that provides:

*All pricing quoted in US dollars.

Some premium services carry additional charges.

Communication surcharges may apply in some areas. Some mail services are not included within your 5 free hours.

CompuServe is for use subject to the terms, operating rules and conditions found online.

6. Consumers choosing to participate in the free trial offer typically do so by connecting to the CompuServe service through a telecommunication modem attached to their personal computers. Upon their initial connection to the service, consumers view a series of registration screens including, but not limited to, the attached Exhibit C. The registration screens obtain identification and billing information from consumers, verify the consumers' user identification numbers and passwords, and provide basic information about the online service, including the following details about the terms of the free trial offer:

Exhibit C

10 FREE HOURS TO START.

To help you get started on CompuServe, we're giving you one free month of membership (a \$9.95 value) and 10 free hours during your first month to explore the services you choose. Surf the Internet..Send e-mail..Set up travel reservations. It's all completely up to you.

But what if you don't use all 10 hours your first month? Or what if you use more? No problem. Use as many or as little of your 10 hours as you want -- just be sure you use them within your first month (30 days) online. After that, they expire. If you do go over 10 hours, additional time is only \$2.95 US per hour.

The registration screen continues with basic membership terms including the monthly charges incurred by CompuServe members:

5 FREE HOURS A MONTH.

Then, if you choose to continue your membership (and we're certain you will!) you'll get 5 FREE hours each month. And -- starting at the beginning of your second month -- you'll pay a monthly membership fee of \$9.95 US. Remember that your hours can't be carried over to the next month. Additional online hours are only \$2.95 each.

COMPUSERVE'S VIOLATIONS OF SECTION 5(a) OF THE FTC ACT

7. Through the means described in Paragraphs 5 and 6, CompuServe has represented,

expressly or by implication, that consumers who participate in its free trial offer will not be charged, provided only that they use the trial time within one month from their initial sign-on and do not exceed ten hours of online use.

8. In truth and in fact, consumers who participate in CompuServe's free trial offer and use less than ten hours of online time during the month following their initial sign-on, but who fail to cancel their memberships during the trial period, incur charges. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. In the advertising and sale of its online service, CompuServe has represented, expressly or by implication, that consumers who participate in its free trial offer will not be charged, provided only that they use the trial time within one month from their initial sign-on and do not exceed ten hours of online use. CompuServe has failed to disclose adequately to consumers that, upon completion of ten hours of online use or one month from the date of initial sign-on, whichever is earlier, consumers who fail to contact CompuServe and cancel their memberships are treated as members of CompuServe and are charged a monthly membership fee plus applicable hourly fees. These fees continue to accrue until the consumers affirmatively cancel their memberships. Such facts would be material to consumers in their purchase or use of the CompuServe service. The failure to disclose these facts in light of the representation made was, and is, a deceptive practice.

COMPUSERVE'S VIOLATIONS OF SECTION 907 OF THE EFTA

10. In the course of the online registration process, consumers must select one of several payment options listed on a registration screen titled "Signup - Billing/Country." These options include credit and charge cards and a payment method referred to as "Direct Debit." CompuServe automatically debits the checking accounts of consumers choosing the Direct Debit option, but requires such consumers to sign and submit a written authorization form before debiting their accounts. Additionally, although CompuServe does not identify debit cards as a payment option, its payment system will process debit cards presented by consumers in place of credit cards. CompuServe does not, however, obtain written authorization under such a circumstance.

11. In the course and conduct of its business, CompuServe has debited consumers' accounts via their debit cards without their written authorization. In addition, in the course and conduct of its business, CompuServe in many instances has failed to provide consumers with advance written notice of transfers from their accounts varying in amount from previous transfers.

12. CompuServe's aforesaid practices violate Sections 907(a) and (b) of the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693e(a) and (b), and Sections 205.10(b) and (d) of Regulation E, 12 C.F.R. §§ 205.10(b) and (d), as more fully set out in Section 205.10 of the Federal Reserve Board's Official Staff Commentary to Regulation E, 12 C.F.R. § 205, Supp. I.

13. The acts and practices of CompuServe as alleged in this complaint constitute deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act. Such acts and practices additionally violate Sections 907(a) and (b) of the Electronic Fund Transfer Act, 15 U.S.C. 1693e(a) and (b), and Sections 205.10(b) and (d) of Regulation E, 12 C.F.R. §§ 205.10(b) and (d).

Therefore, the Federal Trade Commission this sixteenth day of March, 1998, has issued this complaint against respondent.

By the Commission, Commissioner Azcuenaga not participating.

Donald S. Clark
Secretary

SEAL: