

## **Analysis of Agreement Containing Consent Order to Aid Public Comment**

*In the Matter of Publishing.com, LLC, Christian Mikkelsen, and Rasmus Mikkelsen  
File No. 242-3055*

The Federal Trade Commission (“Commission”) has accepted for public comment, subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”) with Publishing.com, LLC, Christian Mikkelsen, and Rasmus Mikkelsen (collectively, “Respondents”). The proposed Decision and Order (“Order”), included in the Consent Agreement and subject to final Commission approval, is designed to remedy Respondents’ deceptive practices in connection with marketing their self-publishing programs.

The proposed Order has been placed on the public record for 30 days in order to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement, and the comments received, and will decide whether it should withdraw from the Consent Agreement and take appropriate action or make the proposed Order final.

The complaint alleges that Respondents violated Section 5 of the FTC Act, 15 U.S.C. § 45, by making false or unsubstantiated earnings claims about their self-publishing programs. The complaint further alleges that Respondents violated Section 5 of the FTC Act by misrepresenting its refund policy as a simple money-back guarantee for 12 months. Finally, the complaint alleges that Respondents falsely represented that consumer reviews and testimonials for their programs represented the actual, genuine experiences and opinions of ordinary and impartial purchasers.

The proposed Order contains provisions designed to prevent Respondents from engaging in these and similar acts and practices in the future.

Provision I of the proposed Order permanently restrains and enjoins Respondents from making earnings claims or assisting others in making earnings claims unless those claims are non-misleading and Respondents have a reasonable basis for them.

Provision II prohibits Respondents from making the specific misrepresentations alleged in the complaint and misrepresentations concerning any other material fact in the sale of any product or service.

Provision III prohibits Respondents from misrepresenting or failing to disclose material terms and conditions of any cancellation or refund policy or failing to promptly honor a consumer’s cancellation or refund request in compliance with company policies in effect at the time of the consumer’s purchase.

Provision IV prohibits Respondents from making certain misrepresentations regarding testimonials and endorsements.

Provision V requires Respondents to disclose any unexpected material connections with endorsers or reviewers and any payments or incentives for posting reviews.

Provision VI requires Respondents to pay \$1.5 million in monetary relief and Provision VII details additional monetary provisions necessary to ensure receipt of the monetary relief.

Provision VIII requires Respondents to provide the Commission with sufficient information about its customers so that the Commission can efficiently administer redress, if possible.

Provisions IX through XIII relate to notice and compliance. Provision IX requires Respondents to acknowledge receipt of the Order; distribute the Order to principals, officers, and certain employees and agents; and obtain signed acknowledgements from them. Provision X requires Respondents to submit compliance reports to the Commission one year after the Order's issuance and when certain events occur. Provision XI requires Respondents to create certain records for 15 years and retain them for five years thereafter. Provision XII requires Respondents to provide information or documents necessary to monitor compliance with the Order during the period of the Order's effective dates. Provision XIII provides the effective dates of the Order, including that, with exceptions, the Order will terminate in 20 years.

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The purpose of this analysis is to facilitate public comment on the Consent Agreement and proposed Order to aid the Commission in determining whether it should make the proposed Order final. This analysis is not an official interpretation of the proposed Order and does not modify its terms in any way.