



Office of the Secretary

UNITED STATES OF AMERICA  
Federal Trade Commission  
WASHINGTON, D.C. 20580

March 25, 2014

Mr. Robert Barnes

*Re: In the Matter of Apple Inc., File No. 1123108*

Dear Mr. Barnes:

Thank you for your comment on the Federal Trade Commission's consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

In your comment, you express concern that Apple is already refunding consumers for unauthorized charges by children and has already reached a settlement concerning such charges. You also object to the portion of the proposed order providing that, to the extent that Apple refunds less than \$32.5 million to consumers as part of the refund process, the remaining portion must be paid to the Commission.

The Commission's proposed complaint alleges that Apple in many instances has billed consumers for in-app charges incurred by children without obtaining the account holders' informed consent to the charges, and that this practice constitutes an unfair practice under Section 5 of the FTC Act. It alleges that, since at least March 2011, tens of thousands of consumers have complained about unauthorized in-app charges by children, amounting to millions of dollars. It further alleges that even parents who discover the charges and want to request a refund face a process that many consumers describe as cumbersome, involving steps that do not clearly explain whether and how a consumer can seek a refund for unauthorized in-app charges incurred by children. Indeed, Apple's stated policy is that all App Store transactions are final.

Based on these allegations, the Commission is concerned that many consumers who were injured by Apple's practices have not received full refunds. Therefore, under the proposed order, Apple will provide full refunds to account holders who have been billed by Apple for unauthorized in-app charges incurred by minors who have not already received refunds from Apple for such charges. To effectuate refunds, Apple must send an electronic notice by April 15, 2014 to its consumers that clearly and conspicuously discloses the availability of refunds and instructions on how to obtain such refunds.

As you note, Apple has entered into a settlement regarding unauthorized in-app charges in another matter, a class action against Apple to which the Commission was not a party. That settlement does not resolve the Commission's legal claim here – that Apple's actions were

unlawful under Section 5 of the FTC Act – and it does not provide the full extent of relief in the proposed order here. The proposed order, unlike the class settlement, provides full refunds to all injured consumers and requires Apple to alter its business practices going forward to obtain express, informed consent to in-app charges before billing for such charges.

Finally, you express concern about the monetary provisions of the order. Under the proposed order, Apple must provide a minimum of \$32.5 million in refunds to account holders who have been billed for unauthorized in-app charges incurred by minors. The threshold amount of \$32.5 million is designed to ensure that injured consumers receive full relief under the proposed order. The remainder would be turned over to the Commission only to the extent that Apple refunds less than that amount in the year following entry of the order. As noted in the proposed order, any such funds would be used for informational remedies, further redress, or disbursement to the U.S. Treasury.

After reviewing your letter, other public comments filed with the Commission, and the investigative record, the Commission has determined that the relief set forth in the proposed order is appropriate and sufficient to remedy the violations alleged in the proposed complaint, and it is in the public interest to issue the Decision and Order in final form. The final Decision and Order and other relevant materials are available on the Commission's website at <http://www.ftc.gov/enforcement/cases-proceedings/112-3108/apple-inc>. It helps the Commission's analysis to hear from a variety of sources in its work. The Commission thanks you again for your comment.

By direction of the Commission, Commissioner Wright dissenting.

Donald S. Clark  
Secretary