

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

RESPONDENT INTUIT INC.'S PRETRIAL BRIEF

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INTRODUCTION

A majority of taxpayers who file their taxes online qualify to file their taxes at no cost using respondent Intuit Inc.'s online tax-filing product, TurboTax Free Edition. Over the last six years, in fact, about 80 *million* returns have been filed for free with Free Edition. Consumers meaningfully benefit from TurboTax's free offer, which has no strings attached and no hidden (or non-hidden) fees. Intuit offers this free product because it hopes to build long-term relationships so that when these consumers have more complex tax situations, they will return to use TurboTax's paid products. Long-term relationships are built on trust, not on deceiving customers, and Intuit did nothing of the sort. To be clear: no one who has filed their taxes using TurboTax Free Edition has ever paid a penny to do so.

TurboTax has become the overwhelming industry leader because, for more than three decades, it has built and maintained trust with its millions of customers. TurboTax needs to be trustworthy: reasonable consumers demand it or they would move quickly to a competitor's website and generate a large volume of complaints for regulators in the process. Additionally, TurboTax *wants* to be fair and accurate. Intuit has a long history and deep culture of integrity without compromise. This culture, which is one of Intuit's primary values, is in harmony with its business interest in building long-term relationships with customers who return year after year at industry-leading rates because they have been treated well.

Against this backdrop, Complaint Counsel have no evidence that any of the challenged ads were or are deceptive. Instead, after four years of investigating, they have imagined a case that rests almost entirely on their own beliefs about Intuit's advertisements. But deception cannot be proven by Complaint Counsel's subjective beliefs; it is the objective facts about the ads that matter. Moreover, this is not a case where the product being advertised is some kind of a sham; rather, TurboTax Free Edition is a legitimate—and legitimately free—product that has

helped tens millions of people file their taxes at no cost whatsoever. Thus, it is unsurprising that Complaint Counsel fall well short of meeting their burden on each requisite element.

Complaint Counsel try to argue that the challenged ads make the *express* claim that all “TurboTax is free.” They do not, which is why Complaint Counsel have conceded—repeatedly—that *none* of the challenged ads makes such an express claim. Complaint Counsel then pivot to argue that consumers must have been deceived because the ads *imply* that all TurboTax is free. That theory is likewise baseless and has already been viewed skeptically by a federal district judge when Complaint Counsel sought (but failed to obtain) a preliminary injunction last year. During oral argument, the judge observed that Complaint Counsel’s theory failed because “nobody thinks” TurboTax “is free to everybody,” RX73 at 17:4-5, and that the disclosure “is right there; isn’t it? ... it says ‘TurboTax free edition, for simple tax returns only,’” *id.* at 40:3-6. The evidence has not improved for Complaint Counsel since that date.

Moreover, Complaint Counsel present the ads in a misleading way, isolating snippets that do not include the clear qualifying language. Reasonable consumers, however—like the federal judge who denied the preliminary injunction—can and do view the ads as a whole. This Court must do likewise, and when taken as a whole, the ads are not deceptive.

The paucity of complaints, as measured against benchmark companies and Intuit’s competitors by Professor Peter Golder, a Professor of Marketing at Dartmouth University’s Tuck School of Business, helpfully demonstrates an absence of deception. Complaint Counsel allege that Intuit engaged in an almost decade-long marketing campaign to create a false expectation among reasonable consumers that they could file for free, only to find out when their taxes were complete that they owed money. If that were true, Intuit and the FTC would have been overrun with complaints. In fact, there are strikingly few complaints from the *tens of millions* of consumers who have used TurboTax products. Particularly given the publicity that these

allegations have received, that is telling. Complaint Counsel try to excuse the lack of any significant number of complaints, but they ignore the most obvious explanation: The ads are not deceptive.

Nor have Complaint Counsel adduced survey evidence that measures the causal impact of any of the allegedly deceptive ads against a control group or that measures anything of interest. Rather than perform a proper study, Complaint Counsel's expert, Nathan Novemsky, posed questions to 607 people without showing even one of them a single one of the challenged ads (or the TurboTax website, where complete pricing and qualifications information is presented). Professor Novemsky, moreover, manipulated the body of survey respondents, excluding several groups (or allowing them to exclude themselves) who would likely *not* have reported any deception, while including those with preexisting biases against Intuit. The fact that this deeply flawed survey is the best one Complaint Counsel can offer, after four years of investigation, speaks volumes. Again, Complaint Counsel ignore the truth directly in front of them: the ads are not deceptive.

It is not Intuit's burden to prove anything, but substantial evidence demonstrates that consumers were not deceived. While Complaint Counsel did no copy testing of even a single challenged ad, Intuit did so (in the normal course of its business) and found that the percentage of consumers who believed that they could file for free using TurboTax was lower than the percentage who *could* file for free using Free Edition.

There have also been (competent) surveys and analyses undertaken by Intuit's experts that further belie any notion of deception. For example, MIT Professor Dr. John Hauser ran an experimental design survey which showed that including more detailed disclosures to TurboTax advertisements did not decrease the share of consumers who would use TurboTax's free offerings. If, as Complaint Counsel claim, Intuit's advertisements served as deceptive "door

openers” (luring customers in), one would expect substantially fewer consumers to choose to start their taxes with TurboTax after being presented with more detailed disclosures. Another expert, Bruce Deal, examined Intuit’s business data for Tax Year 2021 and concluded from his review of the data that 97.6% of individuals who created or accessed a TurboTax account were not even plausibly deceived because of their previous experience using TurboTax paid products, because they could file for free but chose not to do so, and several other reasons detailed below.

At bottom, this is not a run-of-the-mill deceptive-advertising case, where the product being advertised is a sham. It is a legitimate—and legitimately free—product that, as noted, has helped millions of people file their taxes at no cost whatsoever. As the Court will hear from Professor Golder, consumers are intimately familiar with free claims, which are not only made by all of Intuit’s main competitors, but by countless other companies in different industries too. No reasonable consumer believes—as Complaint Counsel ultimately contend—that TurboTax is free for everyone. In this industry, the consumers are far more “reasonable” than Complaint Counsel credit, and they understand and are not deceived by the ads in question. Indeed, as Professor Golder’s study will show, Intuit’s ads meet or exceed those offered by benchmark companies on various key factors that the FTC’s own Guidelines suggest are important for assessing the quality of advertisements. There is no case that upholds a theory of deception on facts anything close to these. One need only watch a few minutes of television to recognize that TurboTax’s ads meet or exceed those offered by scores of other businesses across the spectrum, none of whom are being dragged into court and certainly not on a record as thin as this one.

And if all of that were not enough, the claim here is largely about historical conduct that could never be repeated because of Intuit’s consent order with the attorneys general of all 50 states and the District of Columbia, which both assures that Intuit’s advertisements going forward will address any lingering concerns about Intuit’s free marketing and moots the claim.

As the Court will also see, Intuit’s ads have substantially improved over time and the ads post-consent order serve as an exemplar for the rest of the industry. Complaint Counsel thus seek a cease-and-desist order to bar conduct that is already foreclosed—and that is thus unnecessary to prevent future deception. Accordingly, Complaint Counsel cannot demonstrate the requisite cognizable danger of future unlawful activity required to obtain injunctive relief.

Complaint Counsel’s claim should be rejected, and this proceeding dismissed.¹

BACKGROUND

A. TurboTax

TurboTax is a suite of online tax-preparation software and services. Among its product offerings is TurboTax Free Edition, which is “truly free.” GX161 (Maxson Dep. Tr.) at 279:18. Typically, between ten and fifteen million tax returns are filed for free using Free Edition each year. RX106. The *New York Times*, like many others, “say[s] with confidence that TurboTax Free Edition is the most sophisticated, accurate, and straightforward tool” for preparing one’s taxes online. RX1497.

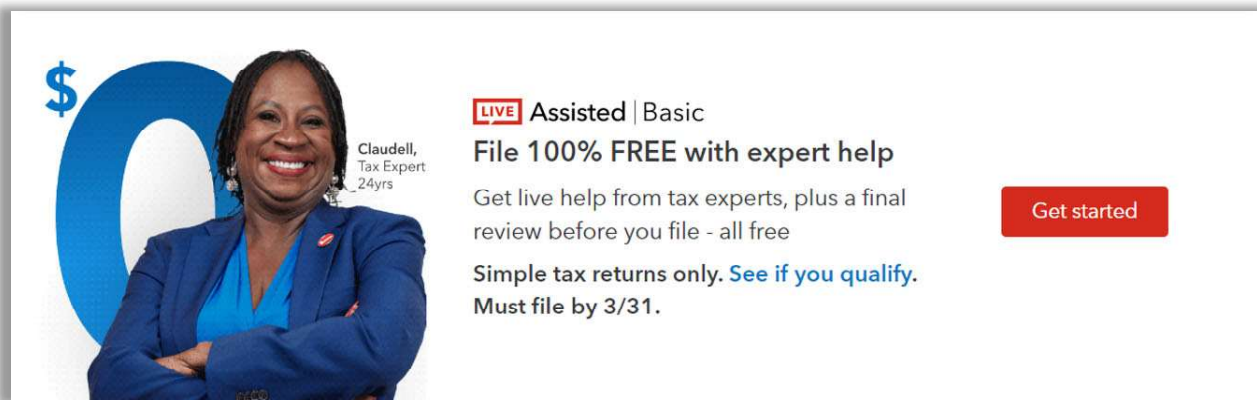
The TurboTax website is both the “store” where consumers purchase TurboTax products (unless, of course, those products are free), as well as the hub where consumers use the software to prepare their taxes. Consumers must visit the website (or TurboTax mobile app) to use any TurboTax online product or service. GX439 (Ryan Decl.) ¶28.

Visitors to the website can see information about all versions of the TurboTax software—commonly referred to as SKUs. Those include both Do-It-Yourself (DIY) and assisted offerings.

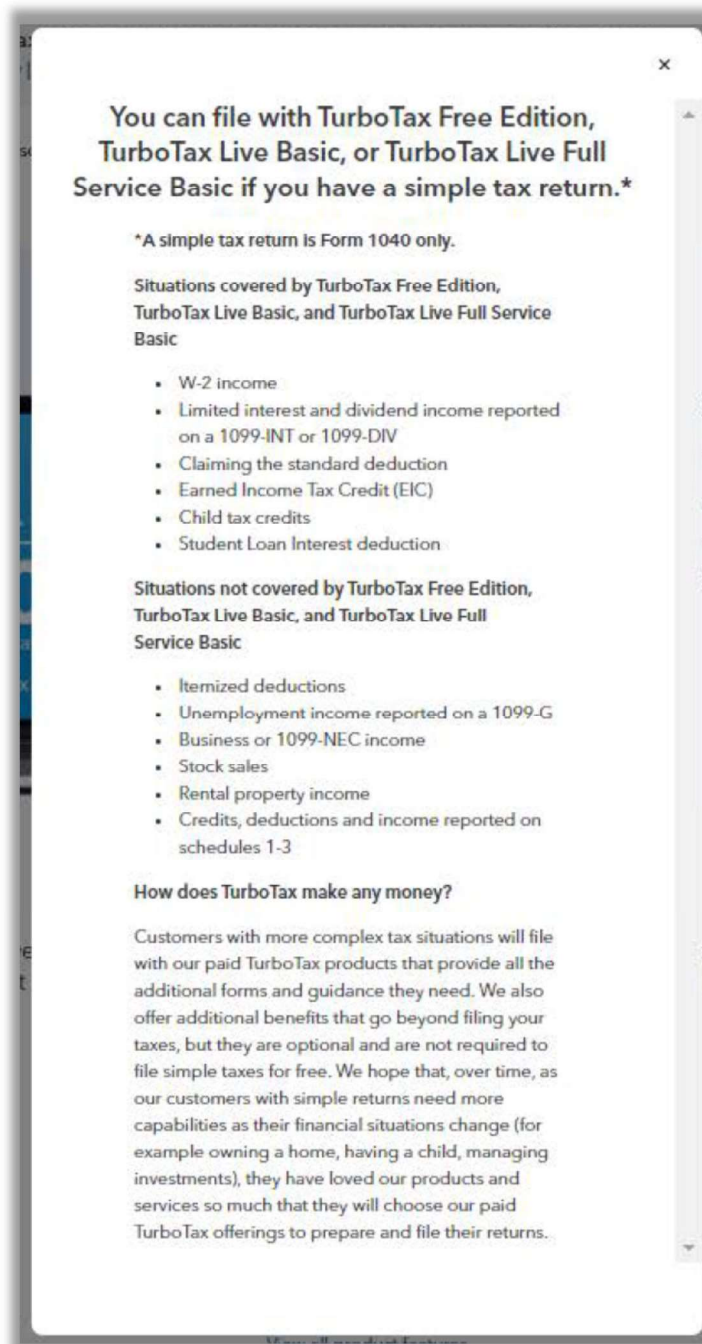
¹ Complaint Counsel submitted 59 pages of pretrial proposed findings of fact as Appendix A to its pretrial brief. Neither the Commission’s rules nor the scheduling order in this case call for (or even authorize) proposed findings at this stage. Intuit will submit its proposed findings of fact based on the evidence adduced at the hearing, in accordance with 16 C.F.R. §3.46(a). Complaint Counsel’s proposed findings, submitted before any evidence is taken, should be stricken.

For taxpayers with simple tax returns, TurboTax offers Free Edition. For those with more complex returns, Intuit offers three other DIY SKUs that cover different and increasingly complex tax situations: Deluxe, Premier, and Self Employed. TurboTax’s assisted SKUs, marketed under the brand TurboTax Live, likewise cover different tax situations, and offer assisted or full-service support from tax experts.

Complaint Counsel admit that the TurboTax website contains “detailed information about the tax situations covered by Free Edition.” *See* Compl. Counsel’s Resps. & Objs. to Intuit’s SMF ¶¶40, 48-49, 53 (Sept. 8, 2022). References on the website to any free offer (like the one reproduced immediately below) include color-contrasted text stating that the offer was for “simple tax returns only.” *See, e.g.*, RX1265. In previous years, that language was hyperlinked. More recently, Intuit has added language asking consumers to “See if you qualify,” with that language color-contrasted and hyperlinked.



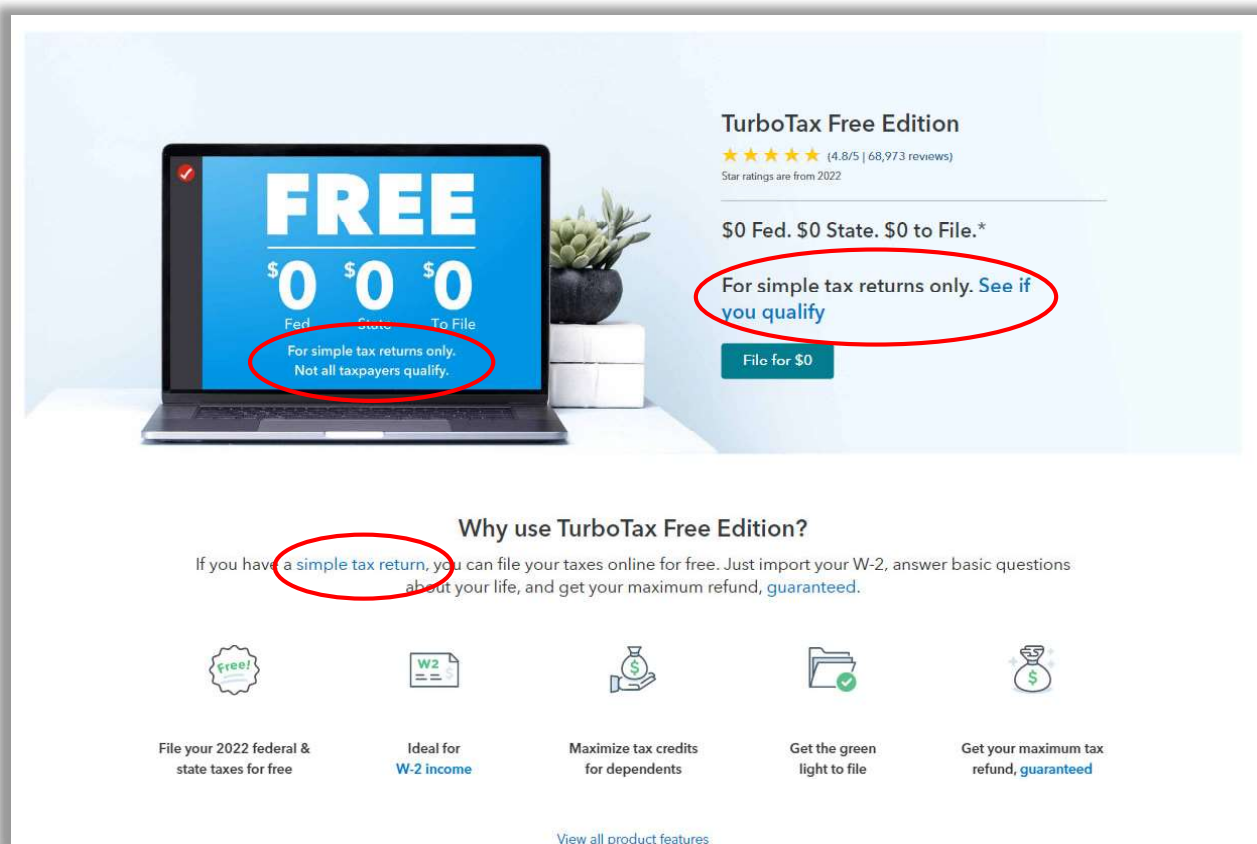
RX1500. When consumers click on that hyperlinked text, they are shown a pop-up (such as the one reproduced below from TY 2021) describing in more detail the tax situations that qualify for Free Edition and providing the definition of “simple tax returns.”



RX3; *see also* RX4; RX138; RX20; RX21; RX122; RX381; RX435; RX1289-1294 (pop-up screen for other tax years).

Some consumers enter the TurboTax website after clicking on an ad for Free Edition. Doing so takes them to the Free Edition landing page (<https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>). Like the homepage (and other webpages with references to free offers),

the Free Edition landing page (shown below) states in multiple places that Free Edition is available to qualifying taxpayers only and includes color-contrasted, hyperlinked text that, when clicked, shows a pop-up detailing Free Edition’s qualifications. *See* RX947. The Free Edition landing page also provides (and has always provided) further details concerning the tax forms and situations covered by Free Edition, product features, customer reviews, and links to help and support. *See id.*; RX1207; RX719; RX722; RX1209.



RX1265.²

After the homepage or Free Edition landing page, the next TurboTax webpage consumers see—before entering any personal information and often before creating an account or logging

² The above is a screenshot of the image from the URL from which RX1265 originates, more accurately reflecting than the exhibit itself what consumers would have seen. There are no substantive differences. (The same is true of the next screenshot, from RX942.)

in—is the TurboTax Products & Pricing page (<https://turbotax.intuit.com/personal-taxes/online/>).
 RX52 at 36. New consumers cannot begin their returns with TurboTax without encountering the detailed information on the Products & Pricing page, including (as shown immediately below) pricing and other information for the full suite of TurboTax SKUs:

America's #1 brand of tax software

Free Edition	Deluxe	Premier	Self-Employed
Simple tax returns only See if you qualify	Maximize tax deductions and credits	Investments and rental property	Personal & business income and expenses
\$0 Fed. \$0 State. \$0 to File.	\$60 \$39* <small>State additional</small>	\$90 \$69* <small>State additional</small>	\$110 \$89* <small>State additional</small>
File for \$0	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>	Start for free <small>Pay only when you file</small>
★★★★★ <small>(4.9 88,975 reviews)</small> <small>Star ratings are from 2022</small>	★★★★★ <small>(4.5 83,485 reviews)</small> <small>Star ratings are from 2022</small>	★★★★★ <small>(4.4 18,545 reviews)</small> <small>Star ratings are from 2022</small>	★★★★★ <small>(4.7 18,844 reviews)</small> <small>Star ratings are from 2022</small>
Hide Details ^	More Details v	More Details v	More Details v

File for \$0 with Free Edition

You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return only. Start by easily importing your W-2, answer simple non-tax questions about your life, and we'll get you your maximum refund.

FREE

\$0
\$0
\$0

Fed State To File

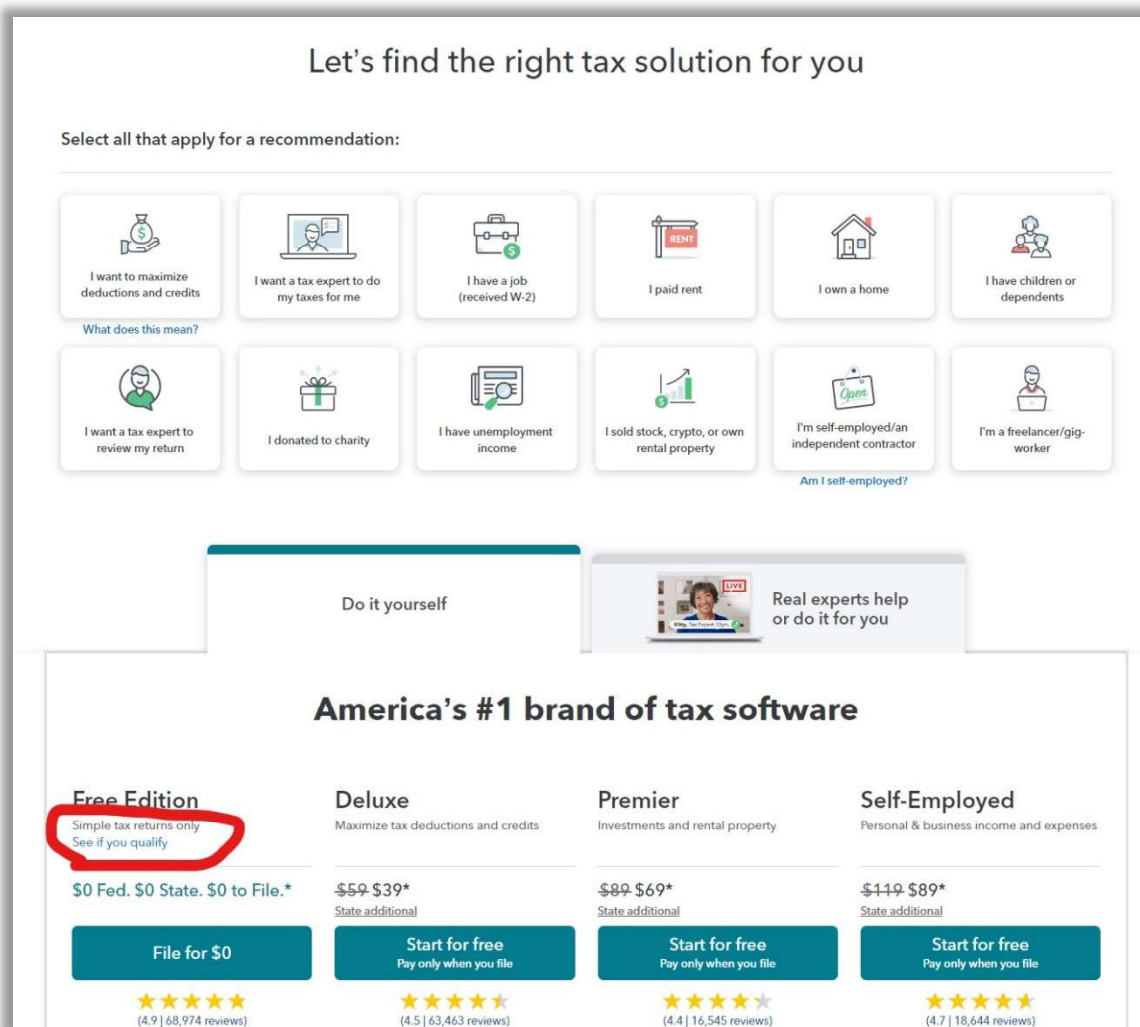
For simple tax returns only.
Not all taxpayers qualify.

- ✓ Free filing of your simple federal and state tax returns only. [See if you qualify](#)
- ✓ Covers W-2 income, Earned Income Tax Credit (EIC) and child tax credits
- ✓ Hobby, personal property rental or personal item sales income reported on Form 1099-K. [Some restrictions apply](#)
- ✓ Jumpstart your return with last year's TurboTax info or import a PDF of your return from another tax software
- ✓ Guidance in case of an audit, backed by our [Audit Support Guarantee](#)
- ✓ Get answers 24/7 from our online community of TurboTax specialists and customers

Included in Free Edition	Everything in Free Edition, plus	Everything in Deluxe, plus	Everything in Premier, plus
<ul style="list-style-type: none"> ✓ Easy prep, print, and e-file ✓ Jumpstart your taxes, snap a photo of your W-2 ✓ Hobby, personal property rental or personal item sales income reported on Form 1099-K. Some restrictions apply 	<ul style="list-style-type: none"> ✓ Searches 350+ tax deductions and credits ✓ Maximizes mortgage and property tax deductions ✓ Turn donations into big deductions 	<ul style="list-style-type: none"> ✓ Covers stocks, bonds, ESPPs, crypto, and other investments ✓ Auto-import your crypto and stock activity to make sure there's no missing info ✓ Covers rental property income and tax deductions ✓ Accurately account for gains and losses from crypto transactions 	<ul style="list-style-type: none"> ✓ Guidance for freelancers, independent contractors, and small business owners ✓ Uncovers industry-specific deductions for more tax breaks ✓ Upload your 1099-NEC or 1099-K with a snap from your smartphone ✓ Audit assessment for added confidence
Learn more	Learn more	Learn more	Learn more

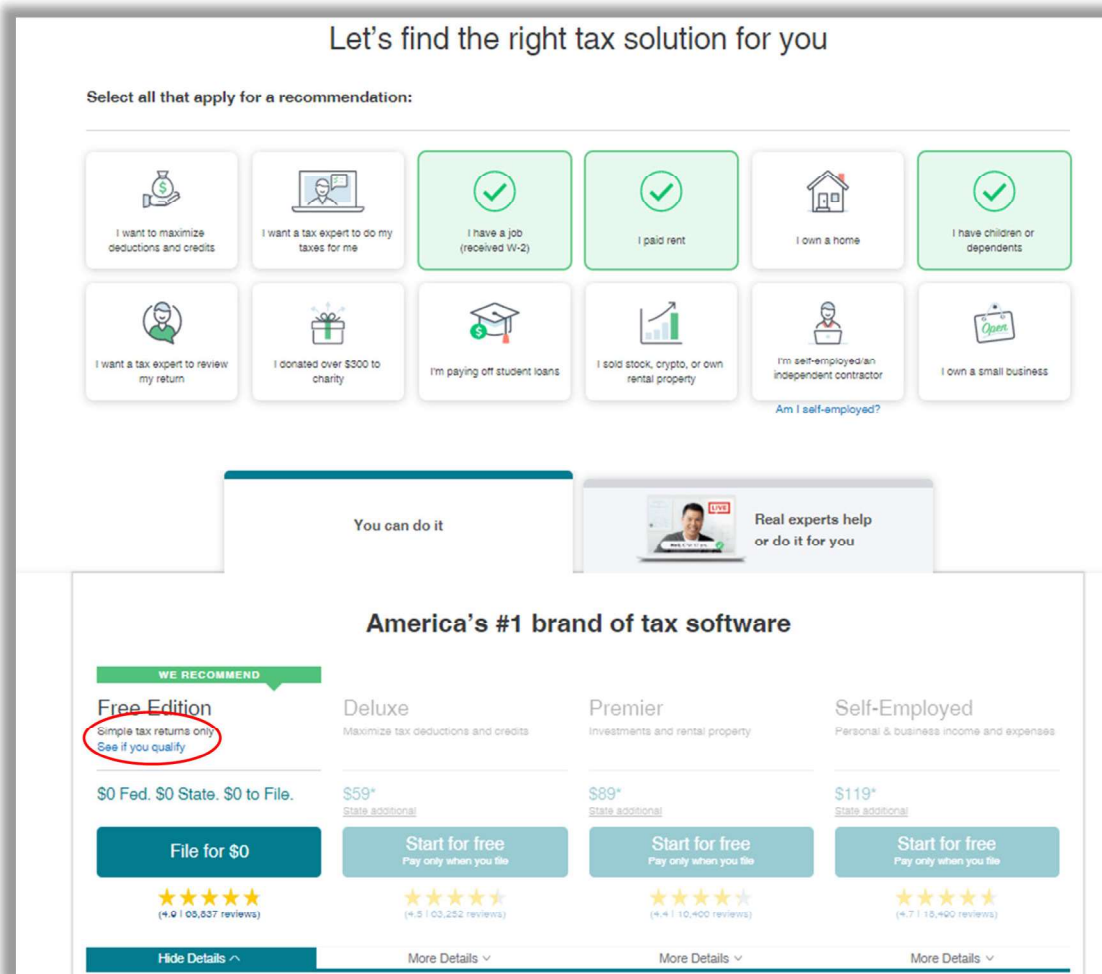
RX942; see also RX944, RX210, RX138, RX122, RX381. As Complaint Counsel concede, the page includes disclosures about Free Edition’s qualifications “in at least four locations” using “contrasted, hyperlinked text.” Compl. Counsel’s Resps. & Objs. to Intuit’s SMF ¶46.

The Products & Pricing webpage also includes a tool for visitors to evaluate what SKU best suits their tax situation.



RX1532 (circle added). As a potential customer clicks on tiles, the software provides recommendations, which appear in the bottom panel of the Products & Pricing Page. RX10; RX11; RX12. For example, if a taxpayer indicates that she rents her home, has a job with W-2 income, and has children or dependents, the tool recommends Free Edition, while clearly

disclosing that the free product is TurboTax Free Edition only, is “For simple tax returns only,” and inviting consumers to “see if they qualify.” RX10 (shown immediately below with the red circle added).³



See also RX944, RX210, RX138, RX122, RX381, RX122, RX1220, RX1221. Most consumers using the SKU selector receive a recommendation to start their taxes with Free Edition. See RX290 at INTUIT-FFA-FTC-000144079; see also RX42 at 11. That is consistent with Intuit’s business priority of having consumers start in the lowest-price SKU for which they qualify.

³ The above is a screenshot of the image from the URL from which RX10 originates, more accurately reflecting what consumers would have seen, as it is in color. There are no substantive differences. RX9 and RX10 originate from the same URL; RX9 shows the webpage without tile selections; RX10 shows the webpage with tiles selected.

GX152 (Johnson IH Tr.) at 161:23-162:1; *see also id.* at 128:21-129:19, 162:9-19; RX334 at INTUIT-FTC-PART3-000608485, -608486. More generally, getting “customers in the right SKU for them” is “critical for [Intuit’s] business success.” GX146 (Ryan Dep. Tr.) at 125:6-11. These efforts have been successful. For TY 2015-2021, there were [REDACTED] returns started in Free Edition, of which [REDACTED]—over 75%—finished in Free Edition. RX820, RX821 at INTUIT-FTC-PART3-000608571, -608572; *see also* RX65; GX295 at INTUIT-FFA-FTC-000003255863; RX37 at INTUIT-FFA-FTC-000316307.

The TurboTax website also includes a page displaying all material limitations for Free Edition (shown in part below).

If you have a simple tax return, you could be eligible to file for \$0

Simple tax returns are those filed using IRS Form 1040 only, with no added complexity. Only certain tax situations qualify.



Situations covered

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- [Child tax credits](#)
- [Student loan interest deduction](#)

[Get started](#)



Situations not covered

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- [Stock sales](#)
- [Rental property income](#)
- Credits, deductions and income reported on other forms or schedules (for example, income related to crypto transactions)

[See all products](#)

Frequently asked questions

How does TurboTax make money?



We want our customers to love our products and services. Because we have customers who pay for our premium products and services, we can offer [simple tax filing](#). We offer additional paid benefits that go beyond filing your simple taxes for free, but they're optional.

When financial situations aren't simple anymore (like owning a home, having a child, or managing investments), we hope our customers will choose to pay to prepare and file their returns with TurboTax.

RX1501; *see also* RX6. Every other webpage referencing a free offer on the TurboTax website includes “Important Details about Free Filing for Simple Tax Returns” (shown below) without having to click a link. This sets out in detail the situations covered and not covered by Free Edition.

TurboTax Online: Important Details about Free Filing for Simple Tax Returns

If you have a simple tax return, you can file for free with TurboTax Free Edition or TurboTax Live Assisted Basic. You can also file with TurboTax Live Full Service Basic at the listed price.

A simple tax return is one that's filed using IRS Form 1040 only, without having to attach any forms or schedules. Only certain taxpayers are eligible.

Situations covered (assuming no added tax complexity):

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student loan interest deduction

Situations not covered:

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on other forms or schedules (for example, income related to crypto investments)

RX1500; *see also* RX5; RX7; RX9.

Consumers who start in Free Edition but whose taxes require another product are alerted as soon as they enter information that reveals that fact. GX155 (Rubin Dep. Tr.) at 40:15-25; GX152 (Johnson IH Tr.) at 129:25-130:10; *see also* RX55 at 1. Obviously, Intuit cannot know the specific details of a consumer’s tax situation until that consumer provides that information. While the TurboTax software uses an interview model, consumers frequently take advantage of the opportunity to import data like W2 and 1099 forms from employers and financial institutions, further streamlining the process.

B. Intuit’s Use Of The Phrase “Simple Returns”

Since Free Edition’s launch in Tax Year 2006, Intuit has marketed Free Edition as available for consumers with “simple tax returns” and aligned Free Edition’s qualifications with the IRS’s definition of that phrase. RX49 at 19. That alignment was driven by Intuit’s desire to “easily communicate to customers which TurboTax product is right for their tax situations.” *Id.* at 20. Using the phrase “simple tax returns” “let[s] consumers know that there are eligibility

requirements for using the TurboTax Free Edition,” and “that those eligibility requirements are tied to the complexity of their tax return.” GX155 (Rubin Dep. Tr.) at 55:16-20.

The IRS defines “simple returns” as those filed using the most basic form for an individual income-tax return, “without any schedules.” RX77 at INTUIT-FTC-PART3-000599201; *see also* RX49 at 19-20. In contrast, “more complicated tax returns” are those requiring “one or more ... [s]chedules along with their Form 1040.” RX1522.

When Intuit first marketed Free Edition, the most basic IRS forms available were Forms 1040EZ and 1040A. *See* RX49 at 20; RX23. Free Edition was thus initially made available to consumers who filed using either form, and Intuit communicated Free Edition’s qualifications by referencing “simple tax returns” or those specific forms. *See, e.g.*, RX23, RX24, RX1280. Before Tax Year 2018, the IRS substantially overhauled its tax forms (including eliminating Forms 1040EZ and 1040A) in response to a 2017 tax-reform law. RX81. In response, Intuit updated Free Edition’s qualifications to continue to align with the IRS’s definition of a simple tax return. *See, e.g.*, RX3, RX4, RX20, RX21.

Even beyond Intuit and the IRS, the phrase “simple returns” is ubiquitous in the tax-preparation field. California’s Franchise Tax Board, for example, uses the same terminology, with the same meaning. *See* RX79. Intuit’s major competitors likewise use the same terminology in defining the qualifications for their free offerings. *See* RX82 (TaxAct: “simple federal return”); RX83 (H&R Block: “simple returns”); RX97 (H&R Block: “Simple returns”); RX98 (TaxSlayer: “simple return”).

Intuit at times has expanded the tax situations covered by Free Edition beyond simple tax returns, but it has never changed the definition of simple tax returns. In Tax Year 2020, for instance, Intuit expanded Free Edition’s qualifications to include individuals who claimed unemployment income, which requires an attached schedule. Intuit made that decision ([REDACTED])

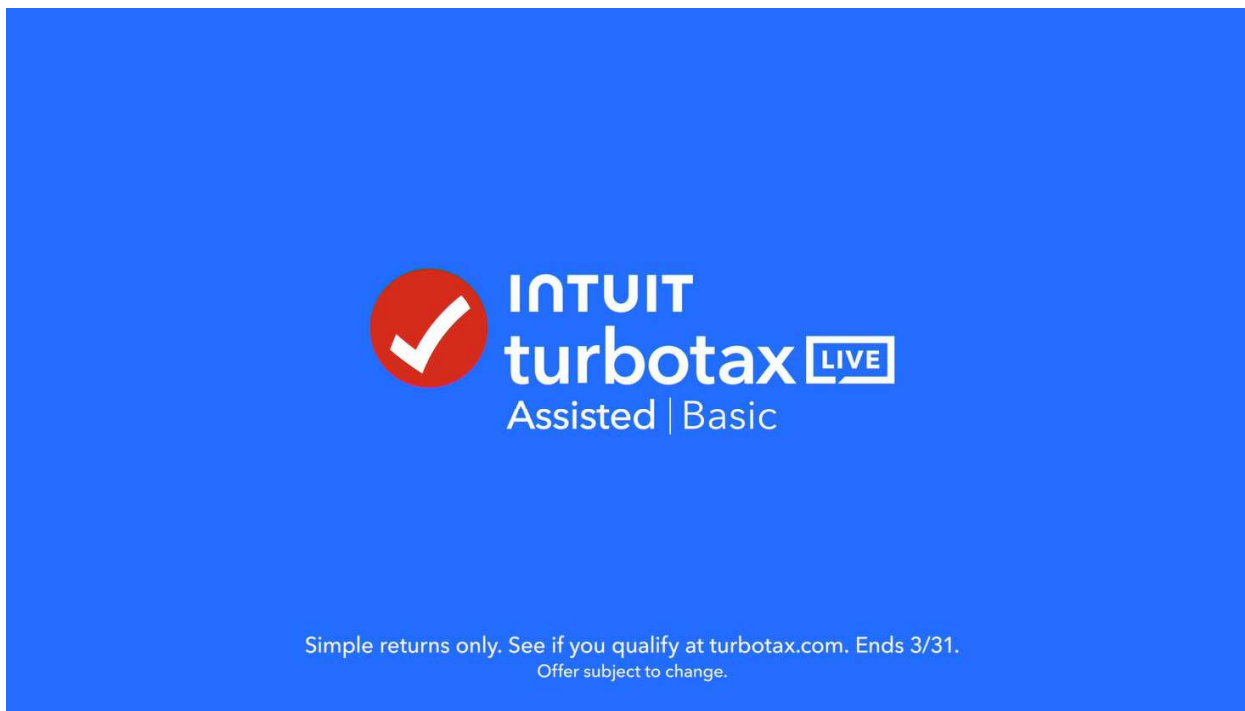
Additional details concerning the disclosures made in the different categories of TurboTax ads challenged here are provided below.

1. Television Advertisements

All Tax Year 2014-2022 television advertisements for Free Edition or other free offers, examples of which are shown below, stated (1) the specific SKU and/or offer being advertised, (2) that the SKU and/or offer was available only for qualifying consumers with “simple tax returns only” (or similar disclosure language), and (3) that more information about those qualifications was available on the TurboTax website. See RX15; RX16; RX17; RX18; RX163; RX200; RX376; RX584; RX598; RX1103-1123; RX1449; RX1472; GX321; GX325; GX328-331; GX344-351; GX669.



RX699 (TY2021) (screenshot).



RX1445 (TY2022) (screenshot).

Some of these ads included voiceover disclosures. For example, Intuit’s Tax Year 2021 Free Edition television ads audibly stated, “TurboTax Free Edition is free,” and encouraged consumers to “see details at turbotax.com.” *See, e.g.*, RX376, 584, and 598. Another ad Intuit ran in Tax Year 2021 expressly stated that “a TurboTax Live expert can do your simple tax return for you, for free,” and that “for a limited time, TurboTax is free for simple returns, even when an expert files for you.” RX1121.

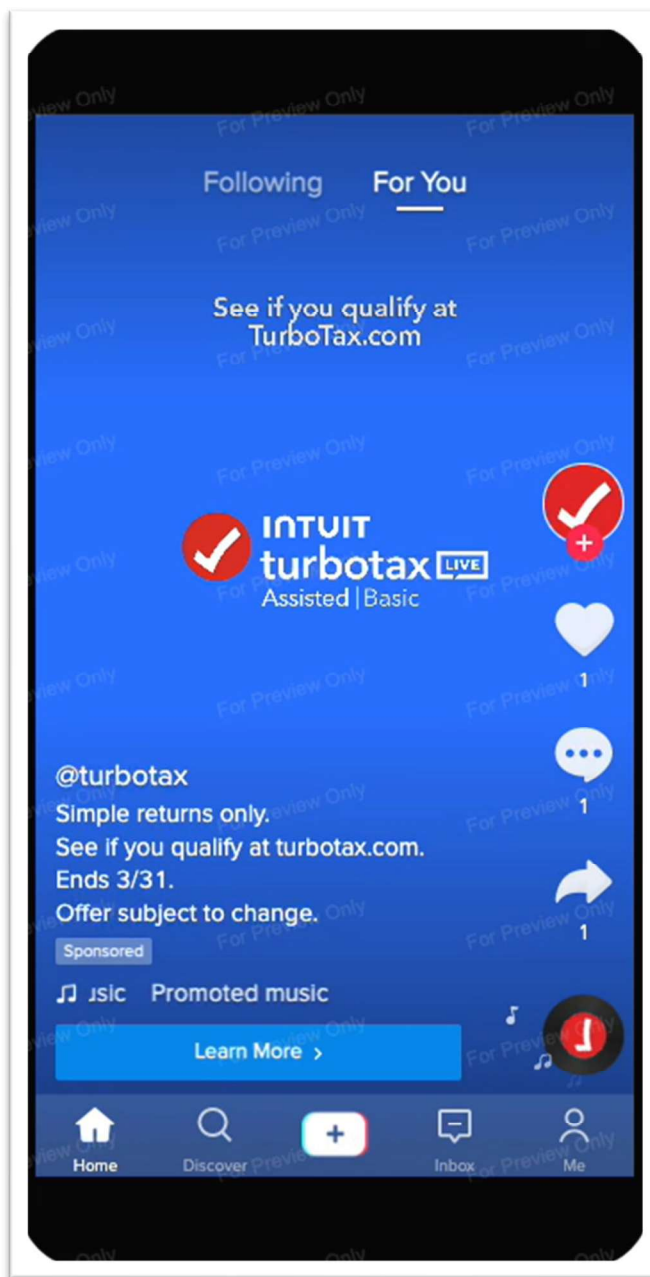
2. Display, Mobile, And Social-Media Advertisements

The challenged display and other online ads for Free Edition identify the specific product being offered and contained text stating that the product offer was available only for qualifying consumers with “simple tax returns” (or similar disclosure language). GX459, GX506, GX507, GX550, GX551, GX732-GX734, GX738, GX740. Clicking any of those ads immediately brought the consumer to the TurboTax website.



GX734.

Intuit also published video advertisements for Free Edition and other free offers online, including on platforms like YouTube and TikTok (as shown below). These ads all identify the specific product being advertised, display some variation of text stating that the product was “for simple U.S. returns only,” and invite customers to see if they qualify at TurboTax.com. GX200, GX206, GX557-GX559, GX561, GX562, GX581, GX582, GX589-GX593, GX616, GX620, GX621, GX623-GX626, GX628, GX629. Clicking any of these ads immediately brings consumers to the TurboTax website.

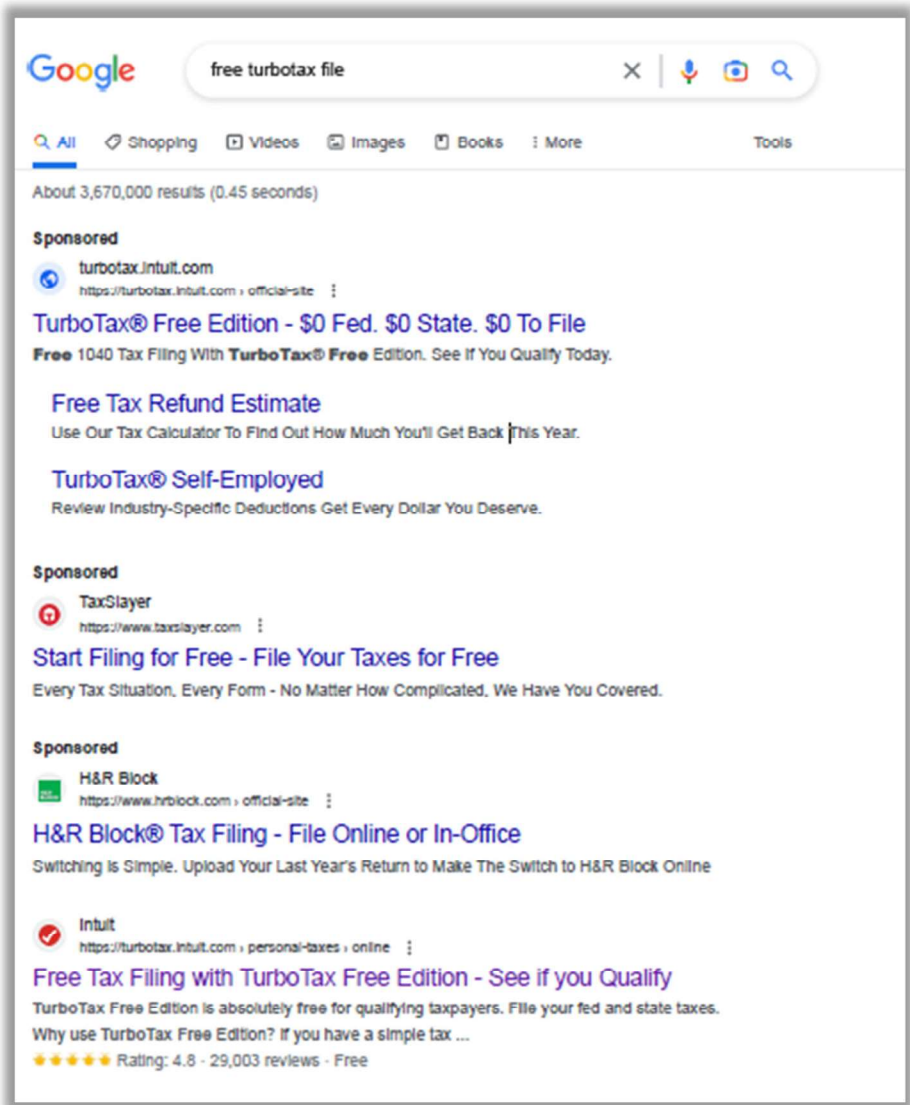


RX1479 (screenshot).

3. Paid Search Advertisements

A third category of challenged ads were those that appeared on the results pages of search engines such as Google and Bing. *See* GX151 at 61:23-64:19, 125:10-130:6. All such “paid search advertisements” that were actually seen by consumers included a link and the phrase “Simple Returns Only,” or similar language, either in or immediately under the link. *See, e.g.,*

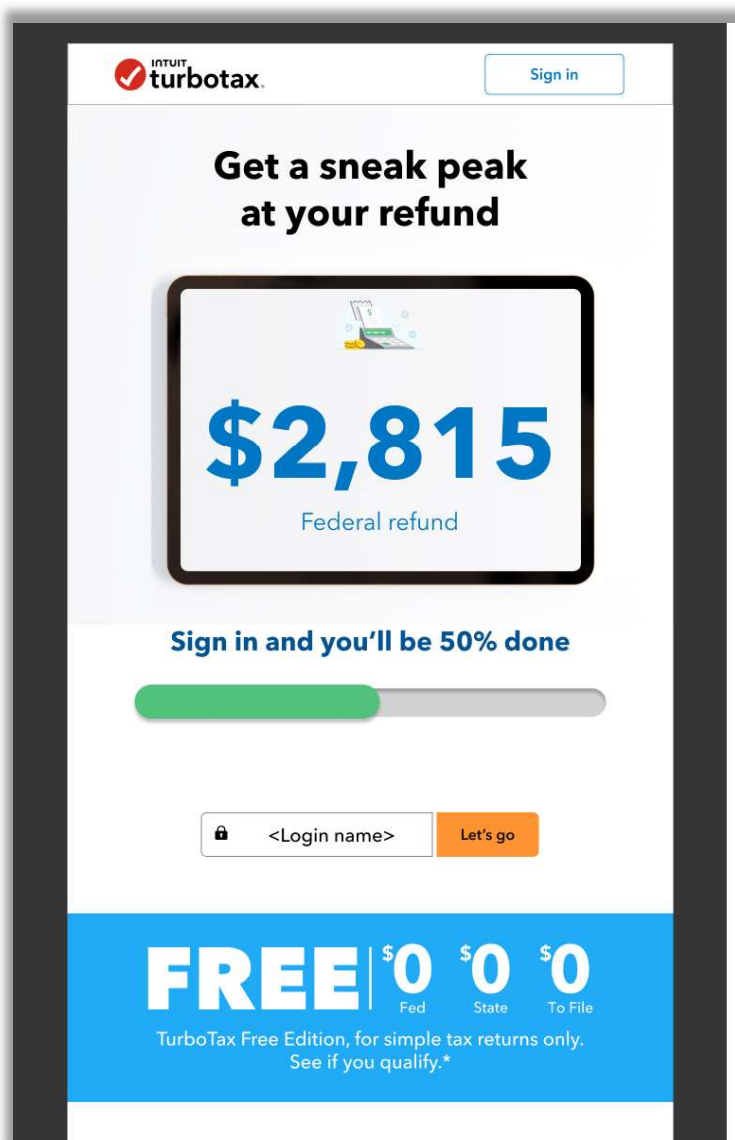
GX178-GX180, GX193-GX195, GX496, RX1436, RX1438. More recent paid search ads also include “[s]ee if you qualify today” immediately under the link. *See, e.g.,* RX1436-RX1439. And again, clicking on paid search ads immediately brought (and brings) the consumer to the TurboTax website.



RX1525. The paid search advertisements of course, are accompanied by organic search results. In the example above, the first such result includes in the headline, “Free Tax Filing with TurboTax *Free Edition—See if you Qualify.*” The result then goes on to state: “TurboTax Free Edition is absolutely free for *qualifying taxpayers.*” *Id.*

4. Email Advertisements

During the relevant years, Intuit marketed (as it still markets today) its Free Edition product to simple filers—typically previous TurboTax customers—through email advertising campaigns. As with all other challenged ads, these included language reflecting Free Edition’s qualifications, and more recent ads also invited consumers to “[s]ee if you qualify.” *See, e.g.*, RX1419-RX1424; RX1431-RX1435. Like other online ads, clicking any of the email ads immediately brought the consumer to the TurboTax website.



RX1433.⁵

5. Radio Advertisements

In Tax Years 2020 and 2021, Intuit marketed its Free Edition product on radio. The two such ads for Tax Year 2020 challenged here stated audibly “Free Edition product only. For simple U.S. returns.” GX627; GX630 (emphasis added). They also audibly encouraged listeners to “[s]ee details at TurboTax.com.” GX627; GX630. The two challenged Tax Year 2021 radio ads included similar language, stating audibly “TurboTax Free Edition is free,” and “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at TurboTax.com.” GX617; GX618 (emphases added).

D. Survey Evidence Shows That Reasonable Consumers Understand Not Every Consumer Is Qualified For Free Offerings

Reasonable consumers understand the “simple tax return” and related qualifying language. In Tax Year 2018, for example, Intuit tested seven different free headlines and found that all respondents considered the “file your simple tax return” language to be “very easy” or “somewhat easy” to understand. RX304. And another survey testing the “clarity” of the phrase “simple returns” revealed that participants “appreciat[ed] TurboTax showing that right up at the very beginning of the process.” GX155 (Rubin Dep. Tr.) at 58:5-11; see RX44 at INTUIT-FFA-FTC-000117680.

[REDACTED]

[REDACTED] further confirms that consumers understand Free Edition’s qualifications. RX379; GX460. [REDACTED]

⁵ The compendium of TurboTax free ads in Appendix B of Complaint Counsel’s pretrial brief includes incorrect tax years for a number of email ads. Complaint Counsel identify one email ad as from Tax Year 2015, GX388, that was actually for Tax Year 2016. Other email ads with incorrectly identified tax years include GX377, which is for Tax Year 2018, and GX374, which is for Tax Year 2017.

[REDACTED] sought to reflect consumers’ long-term impressions of the TurboTax brand, as those impressions were created by any number of sources, including possible prior exposure to TurboTax advertisements. See RX1017 (Hauser Rep.)

¶¶78-79. [REDACTED]

[REDACTED] RX379 at 36. [REDACTED]

[REDACTED], *id.* at 28—which is lower than the percentage of the population that *can* file for free using TurboTax, RX95 at 2; RX1017 (Hauser Rep.) ¶79. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] RX379 at 27.

E. Intuit’s Free Edition Business Strategy

TurboTax markets Free Edition so that tax filers with simple returns can have a free option. *E.g.*, GX156 (Ryan IH Tr.) at 118:10-118:19. Marketing a free product to qualifying consumers has long been a pillar of TurboTax’s core business strategy. See RX286 at INTUIT-FFA-FTC-000275245. Intuit hopes that customers who use its free products will have positive experiences and therefore choose to use paid TurboTax offerings as their tax situations become more complex. RX54 at INTUIT-FTC-PART3-000602511; GX152 (Johnson IH Tr.) at 124:17-23. As Greg Johnson, General Manager of Intuit’s Consumer Group from 2018 to 2022, explained, “customers tend to go through cycles of various type of life events[] ..., and as we have relationships and they trust us, over time ... they may need us for a service that’s more advanced than their current simple tax filings.” GX152 (Johnson IH Tr.) at 124:25-125:14; accord GX156 (Ryan IH Tr.) at 118:10-118:19; GX148 (Somers Dep. Tr.) at 88:19-25. A focus

on long-term customer retention is particularly rational in the tax-preparation industry, where a “largely fixed set of consumers,” combined with “very low marginal costs and [the] annual requirement to file taxes” means “Intuit and its competitors derive greater value from exceeding customer expectations and repeated patronage of their customers than from one-off” transactions. RX1027 (Deal Rep.) ¶10(b). Deception is never part of the plan. GX146 (Ryan Dep. Tr.) at 125:6-126:8.

Consistent with those business objectives, Intuit invests considerable time and energy ensuring its advertisements are “as clear and transparent as possible on qualifications because [Intuit] want[s] customers to have a great experience” and “want[s] them to ... get into the right product.” GX149 (Crosby Dep. Tr.) at 118:8-21; *accord* GX651 at 2. Intuit’s internal website design guidelines, for instance, mandate (and mandated throughout the time of the challenged ads) that the website provide Free Edition’s qualifications using language that is “direct and clear” and include a “link to eligibility criteria so it’s easy to see if [consumers] qualify for Free Edition.” RX62 at INTUIT-FFA-FTC-000490076. If Intuit or its executives believed that TurboTax advertisements were misleading consumers and not getting “customers into the right SKU,” it “would stop [its advertising] immediately.” GX146 (Ryan Dep. Tr.) at 125:6-11. This commitment to transparency makes economic sense, as the cost of losing a customer angry about feeling deceived exceeds the revenue gained from that one-time deception. RX704 at 7; RX1027 (Deal Rep.) ¶63.

F. Consumer Reactions To The Challenged Ads

Complaint Counsel have identified (Pretrial Br. 25) 228 potentially relevant consumer complaints for Tax Years 2015-2021. That is an average of 38 complaints per year—for a product used annually by *tens of millions*. The tens of thousands of reviews on the TurboTax website for both free and paid SKUs are similarly devoid of any significant number of

complaints (and almost none of those that do exist are tied to the ads), instead showing average ratings of 4.8 and 4.5 out of 5 stars for Free Edition and Deluxe, respectively, from October 2021 through December 2022. *See* RX1018 (Golder Rep.) ¶44. Further, the number of complaints filed about TurboTax on the Better Business Bureau (BBB) website is significantly *less* than that of other benchmark companies and competitors. *See id.* ¶¶84-90, fig. 10. And only 0.05% of the records of interactions with Free Edition in Intuit’s customer relationship management (CRM) databases are even potentially related to Complaint Counsel’s allegations. RX1520 (Deal Suppl. Rep.) ¶6.

Relatedly, TurboTax consistently retains roughly 80% of its customers each year, RX924 at 96; RX704 at INTUIT-FTC-PART3-000607315, including an even higher percentage of its paying customers. RX704 at INTUIT-FTC-PART3-000607315. Intuit judges its success in part by “customer satisfaction rates, ratings and retention rates” and considers its superior retention rate a “huge success.” GX150 (Goode IH Tr.) at 120:17-121:12. Those retention rates would not be possible if the paying consumers had an expectation (from the challenged ads or otherwise) that they were going to be able to file for free and then could not. RX1018 (Golder Rep.) ¶47; RX1027 (Deal Rep.) ¶¶93-95.

G. The State Attorneys General Consent Order And Intuit’s Free Marketing Going Forward

In May 2022, Intuit entered into a consent order with the attorneys general of all 50 states and the District of Columbia (the “Consent Order”). RX399. Intuit did so in order to put these allegations behind it, and consistent with its longstanding commitment to improving its advertising. The order was entered as a final judgment in state court in Los Angeles on June 25, 2022. *Id.* at INTUIT-FTC-PART3-000614004-000614030. Although Intuit did not (and does not) concede liability or wrongdoing, *id.* at INTUIT-FTC-PART3-000614005, it paid \$141

million into a settlement fund, *see id.* at INTUIT-FTC-PART3-000614012. The order also imposes restrictions on Intuit’s “free” advertising, effective last August, including that:

- Intuit is prohibited from airing either the “Free Free Free” ads that were the focus of the FTC’s investigation and complaint or any video ads that are “substantially similar in their repetition of the word free.”
- For “Non-Space-Constrained” ads for free tax-preparation products, Intuit “must disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer’s ability to use that free product; and (2) that not all taxpayers qualify for the free product.”
- For “Space-Constrained” ads (other than Space-Constrained video ads), Intuit “must disclose that eligibility requirements apply,” and “[i]f made online, Intuit must also (1) Clearly and Conspicuously include a hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously contains full disclosure of all material eligibility restrictions or (2) link by clicking on the Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously sets forth full disclosure of all material eligibility restrictions.”
- In Space-Constrained video ads, for the next ten years, “Intuit must visually disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer’s ability to use that free product; and (2) that not all taxpayers qualify for the free product.” Additionally, for the same period, in Space-Constrained video ads except those that are “8 seconds or shorter,” “Intuit must verbally disclose, Clearly and Conspicuously and in Close Proximity to the representation that the product is free, that not all taxpayers qualify.”
- The TurboTax website must “disclose (1) Clearly and Conspicuously and very near to the [free] representation all material limitations on a consumer’s ability to use that free product, including, but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is very near to the representation, (ii) that indicates that there are material limitations on a consumer’s ability to use that free product, and (iii) that links to a landing page or webpage that Clearly and Conspicuously sets forth all material limitations on a consumer’s ability to use that free product, including, but not limited to, eligibility criteria for that free product.”
- For any consumer who does not qualify to use Free Edition, “Intuit must disclose” the ineligibility to the consumer “Clearly and Conspicuously ... at the earliest point at which it is reasonably possible to determine” that ineligibility.

Id. at INTUIT-FTC-PART3-000614010-000614011.⁶

H. Intuit’s Current Advertising

Since it was entered, Intuit has fully complied with the Consent Order and no concerns have been raised by the states regarding Intuit’s compliance. To the contrary, Intuit’s Tax Year 2022 advertisements, which are currently in use, leave no doubt that the company’s free offers are qualified.

So far this Tax Year, Intuit’s television advertisements have marketed a free offer for TurboTax Live Assisted Basic. *See, e.g.*, RX1445; RX1449. All of these ads include prominent text in the middle of the title card stating that the advertisement is for “Intuit TurboTax Live Assisted Basic.” They also include white text on a dark blue background stating, “Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change.” All Tax Year 2022 television ads for the free TurboTax Live Assisted Basic offer also include a voiceover stating that the offer is available for a “simple return” and to “See if you qualify at TurboTax.com.”

Intuit’s free TurboTax ads in other channels, such as display and TikTok, likewise include clear and conspicuous disclosures consistent with the Consent Order. For instance, display video ads for the free TurboTax Live Assisted Basic offer state the advertisement is for “Intuit TurboTax Live Assisted Basic” and “Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change.” RX1454-RX1461; RX1462-RX1469; RX1470-RX1477. Online video ads with audible free claims likewise include a voiceover that refers to “filing a simple return for free” and invites consumers to “see if you qualify at turbotax.com.” RX1454-RX1457; RX1462-RX1465; RX1470-RX1473. Similarly, all Tax Year

⁶ Capitalized terms in quoted provisions of the Consent Order are defined therein. *See* RX399 at INTUIT-FTC-PART3-000614005-000614008.

2022 TikTok ads include for the entire duration of the advertisement white text stating, “Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change.”

RX1478-RX1489. These ads also state that the advertisement is for “Intuit TurboTax Live Assisted Basic,” *id.*, and include a title card that invites consumers to “see if you qualify at turbotax.com” in white text contrasted against a blue background, RX1479; RX1481; RX1482; RX1484; RX1487. And display ads for the free TurboTax Live Assisted Basic offer state in white font on a blue background, in a font size that matches other text in the ad, “Simple tax returns only. See if you qualify.” *See, e.g.*, GX733; GX738; GX740.

Intuit’s Tax Year 2022 Free Edition ads communicate Free Edition’s qualifications in a similar fashion. Online video advertisements state clearly at the top of the screen that the advertisement is for “TurboTax Free Edition,” and include white font on a blue background similar in size to the text in the rest of the advertisement stating, “Simple tax returns only. See if you qualify.” RX1421; RX1423. Free Edition display ads all show that the advertisement is for “TurboTax Free Edition” and state, in white font on a blue background sized to match other ad, that the offer applies to “simple tax returns only.” *See, e.g.*, RX1419; RX1420; GX734. Further, Tax Year 2022 Free Edition paid search advertisements include the language “See if you qualify today” and “Free for Simple Tax Returns Only With TurboTax Free Edition” immediately under the link. *See, e.g.*, RX1436-RX1439. Clicking any link again brings consumers directly to the TurboTax Free Edition landing page where detailed disclosures are readily available without having to click any links. And similar to other current ads, Tax Year 2022 Free Edition email advertisements state “TurboTax Free Edition, for simple tax returns only. See if you qualify.” *See* RX1431-RX1435. Clicking on those ads also brings you immediately to the TurboTax website.

ARGUMENT

“A practice is deceptive in violation of § 5(a) [of the FTC Act] only if: (1) there is a representation, omission, or practice; (2) that is likely to mislead consumers acting reasonably under the circumstances; and (3) the representation, omission, or practice is material.” *FTC v. DirecTV, Inc.*, 2018 WL 3911196, at *5 (N.D. Cal. Aug. 16, 2018) (quotation marks omitted). Applying this standard, Complaint Counsel cannot satisfy their burden of proving by a “preponderance of the evidence” that any of the challenged ads was deceptive, *Telebrands Corp.*, 140 F.T.C. 278, 426 (2005). In any event, the prospective relief Complaint Counsel seek is unwarranted, not least because the Consent Order means the conduct Complaint Counsel targets is already enjoined. And a host of threshold issues precludes any relief even apart from the merits, including mootness, laches, the statute of limitations, a host of constitutional infirmities in these proceedings.

I. COMPLAINT COUNSEL’S ALLEGATIONS THAT INTUIT’S HISTORICAL MARKETING PRACTICES WERE DECEPTIVE ARE WRONG

The central premise of Complaint Counsel’s theory—that Intuit’s ads were deceptive because they conveyed to a reasonable consumer, either expressly or implicitly, that all TurboTax products can be used for free—is refuted by the evidence.

As a threshold matter, it is critical to bear in mind that, contrary to Complaint Counsel’s assertion (Pretrial Br. 1), this is no “textbook” deceptive-advertising case. Complaint Counsel do not allege—and certainly cannot prove—the hallmarks of such a case, such as “systematically defective products or services” or any “failure to perform promised services.” *FTC Statement on Deception*, 103 F.T.C. 174 175 (1984), appended to *Cliffsdale Assoc.*, 103 F.T.C. 110 (1984). This case involves ads for an industry-leading product that is used by millions and millions of consumers each year to who file their taxes for free. The challenged ads are no different (and frankly far clearer) than most ads that run on television or elsewhere. And even though the

challenged ads for that product have run widely, for many years, there are almost no consumer complaints about it, and survey evidence shows consumers were in fact not deceived.

As such, this case has few analogues in cases brought by the FTC, in Part 3 or elsewhere. Perhaps the only close one is *FTC v. DirecTV, Inc.* Like that case, this one involves a “high-involvement” product, RX1017 (Hauser Rep.) ¶102—i.e., a “considered purchase” typically made only after consumers “go through [an extended] process”—that is advertised “through several different media,” including “television commercials,” “Internet banner ads,” and the product’s “website,” *DiracTV*, 2018 WL 3911196, at *3. And here, as *DiracTV*, “[t]he FTC’s ambition in attempting to show” that the multi-tiered marketing of a well-reviewed and widely used product was deceptive “substantially exceed[s] the strength of its evidence,” *id.* at *19. In that case, as here, the bulk of the Commission’s case law has little application and risks deterring the marketing of a product consumers not only understand but benefit from greatly. As shown in the balance of this section, none of Complaint Counsel’s arguments has merit.

A. Intuit’s Advertising Did Not And Does Not Convey To Consumers That “TurboTax” Is Free Without Qualification

Complaint Counsel suggest that approximately 300 Intuit advertisements—listed in Appendix B of their pretrial brief—either expressly or implicitly conveyed false or misleading claims. But Complaint Counsel actually address only a handful of those ads in their brief, without explaining why those ads were chosen or how the ads they ignore might differ. Complaint Counsel do not argue, let alone establish, that those ads are representative of all free TurboTax ads, or of even the roughly 300 ads they list in Appendix B. And as to the handful of ads they address, Complaint Counsel often mischaracterize what is conveyed. Disregarding those mischaracterizations and focusing on the actual content of the ads makes clear that Intuit made no false or misleading claims.

1. The Ads Do Not Contain The Express Claims Alleged

Express claims are those that directly state the representation at issue. *See FTC Statement on Deception*, 103 F.T.C. at 176. Complaint Counsel posit (Pretrial Br. 30-31) that the challenged ads expressly claim that “consumers can file their taxes for free using TurboTax.” But none of the ads makes this claim. Instead, as shown in Appendix B to Complaint Counsel’s pretrial brief, the ads make express claims such as “TurboTax is FREE for simple tax returns only” and “TurboTax Free Edition is free” (both of which are completely true and not even argued to be deceptive), or simply include the word “free”—which is not even a claim about TurboTax or any TurboTax product, GX161 (Maxson Dep. Tr.) at 239:7-15. Indeed, when challenged, Complaint Counsel have conceded that there are no ads “saying TurboTax is free.” *Id.* at 71:19-20; *see also* Compl. Counsel’s Resps. & Objs. to Intuit’s SMF (Sept. 8, 2022) ¶17 (conceding that “Intuit’s Free Edition advertisements do not expressly contain the phrase ‘all consumers can file their taxes for free with TurboTax’”). Those concessions doom Complaint Counsel’s express-claim theory, because “[e]xpress claims are ones that directly state the representation at issue,” i.e., where “the message is stated unequivocally,” *Thompson Med. Co.*, 104 F.T.C. 648, 788 (1984).

Appendix B identifies one ad of more than 300 (a Tax Year 2021 television ad) that Complaint Counsel contend makes the express claim that “TurboTax is free no matter how you want to file?” But that selective quote ignores the rest of the ad—which is improper because courts, in assessing express claims, consider the entirety of the representations in an ad, not selective snippets, *Eckler v. Wal-Mart Stores, Inc.*, 2012 WL 5382218, at *3 & n.4, *6 & n.9 (S.D. Cal. Nov. 1, 2012); *see also Marksberry v. FCA US LLC*, 606 F. Supp. 3d 1075, 1082 (D. Kan. 2022) (“Plaintiff contends that ‘lifetime’ means ‘lifetime.’ But Plaintiff’s argument would require the Court (and consumers) to ignore other words in the warranty.”). Indeed, Complaint

Counsel’s argument ignores the very next two sentences spoken after “did you know TurboTax is free no matter how you want to file,” namely “I don’t believe that. It’s true, anyone *with a simple tax return* can get help from an expert for free.” GX309 (emphasis added). Moreover, the ad ends by stating verbally, “[f]or a limited time, TurboTax is free *for simple returns*, no matter how you file.” *Id.* (emphasis added). Indeed, Complaint Counsel’s pretrial brief acknowledges (at 12) that this ad contained the repeated verbal statement that the offer was available only to “[a]nyone with a simple tax return.” The ad also stated, both at the beginning and the end, that the free offer was “[f]or simple tax returns only,” and invited consumers to “[s]ee if you qualify at turbotax.com.” *Id.* It is simply not true that this ad, considered in its entirety, expressly claimed that all TurboTax products are free.

Complaint Counsel also cite (Pretrial Br. App. B 17) GX177, which does not include qualifying language similar to that in the ad just discussed. But Complaint Counsel offer no evidence that any consumer ever saw that ad—and as Cathleen Ryan, Intuit’s Vice President of Marketing, will testify at trial, Intuit did not develop GX177 or pay to have it run. In fact, the ad violates the express instructions provided to Intuit’s advertising agencies in Tax Year 2020. GX439 (Ryan Decl.) ¶26.

Every other ad identified by Complaint Counsel between Tax Years 2014 and 2022 contained at least one clear statement (in writing, orally, or both) that only a subset of consumers could use the advertised free offer and stated clearly that the ad was for the free product, not “TurboTax.” RX1018 (Golder Rep.) ¶99. These statements were frequently accompanied by a call to visit the TurboTax website for more qualifying detail. *Id.* ¶103. This consistent use of qualifying language confirms that none of the ads ever portrayed the entire suite of TurboTax software as free.

Complaint Counsel’s express-claim theory must be rejected.

2. The Net Impression Of The Ads Do Not Support The Implied Claims

Complaint Counsel fare no better with their implied-claims theory. There simply is no sound basis to conclude that Intuit’s ads implied to a reasonable consumer that all TurboTax products are free.

Again, this case closely parallels *DirectTV*. There, “the FTC’s theory that Defendant’s advertisements were likely to mislead reasonable consumers,” 2018 WL 3911196, at *5, was rejected because “the advertisement adequately disclose[d] the details that the FTC claim[ed] were omitted,” and hence “the net impression of the [challenged] advertisement on its face would not be likely to mislead a reasonable consumer,” *id.* at *9. The same is true here. The ads Complaint Counsel challenges (except for GX177, which, again, Intuit did not create, *supra* p.37) stated that TurboTax Free Edition is free (which it is), provided details about who qualifies, and directed consumers to the TurboTax website for additional information. And here too, Complaint Counsel’s argument depends on impermissibly ignoring portions of the ads in discerning what claims were made. Reasonable consumers do not ignore that information. As a result, the ads do not create the net impression contended by Complaint Counsel.

a. *Complaint Counsel Improperly Ignore The Ads’ Qualifying Language*

At its core, Complaint Counsel’s implied claim rests viewing each challenged ad not as a coherent whole, but rather as a series of discrete pieces. Again and again, Complaint Counsel focuses (*e.g.*, Pretrial Br. 2-4, 30, 32) on the ads’ inclusion of the word “free.” But the advertised product *is* free. Complaint Counsel, by necessary implication, are arguing that the ads conveyed that *other products* not referenced in the ad are also free. They have not come close to satisfying their burden that this is so, and logic and the evidentiary record demonstrate that it is not so.

In part, Complaint Counsel’s theory fails because the claims an ad implicitly conveys are not determined through isolated examination of parts of an ad. Instead, courts must assess the “net impression” of the entire ad. *DirecTV*, 2018 WL 3911196, at *8. This assessment requires taking into account “the entire document, the juxtaposition of *various phrases* in the document, the nature of the claim, and the nature of the transaction.” *FTC Statement on Deception*, 103 F.T.C. at 176 (emphasis added); *accord S.C. Johnson & Son, Inc. v. Clorox Co.*, 241 F.3d 232, 238 (2d Cir. 2001) (courts “must consider the advertisement *in its entirety* and not ... engage in disputatious dissection”) (omission in original); quotation marks omitted; emphasis added)). Put differently, “[t]he entire mosaic should be viewed rather than each tile separately.” *Id.* The FTC itself has specifically emphasized this principle, stating in the context of digital ads that “[w]hen identifying the[] claims” in an ad, the analysis “should not focus only on individual phrases or statements, but should consider *the ad as a whole*, including the text, *product name*, and depictions.” RX96 (.com Disclosures: How to Make Effective Disclosures in Digital Advertising (Mar. 2013)) at 5 (emphasis added); *see also American Home Prods.*, 98 F.T.C. 136, 374 (1981) (discerning implied claims by assessing the challenged ads “in their entirety”).

In addition to asking this Court to ignore the qualifying language in Intuit’s ads, Complaint Counsel wrongly assert that “Intuit has made many of its ‘free’ claims without any qualification whatsoever.” Pretrial Br. 38. The only support Complaint Counsel offer for this assertion about “many” of Intuit’s claims are two paid search ads from Tax Year 2019—each of which *did* include qualifying language. *See* Compl. Counsel’s Pretrial Proposed Findings of Fact ¶¶83, 84. Each specified that “Over 50 Million Americans Can File With **TurboTax® Free Edition**,” making clear not only that the “free” claim pertained to a specific product (Free Edition) but also that not everyone qualifies for that product. Complaint Counsel’s attempts to misrepresent the plain text of the ads should be disregarded.

The rest of the challenged ads, i.e., looking beyond the *two* Complaint Counsel cite in making claims about “many” of the 300, likewise included ample qualifying language. Each stated—in oral or written format, or both—that the free offer was limited to a single product or offer (e.g., “TurboTax Free Edition is free” voiceovers) and available to a subset of consumers, namely, those with “simple tax returns.” *See supra* pp.20-27, 32-33; Appendix A. Thus, none of the ads Complaint Counsel claim is deceptive implied that “TurboTax [including the paid versions thereof] is free.”

This is true even for ads that, by and large, repeated the word “free” several times. “Simply say[ing]” the word “free” in an ad for TurboTax Free Edition is not a claim that TurboTax’s *paid* offerings are free, in addition to the free product being advertised. GX161 (Maxson Dep. Tr.) at 239:7-15. Again, these ads all included qualifying language, *supra* pp.20-27, 32-33, making clear the parameters of the free offer, *infra* p.40-41. That is not apparent from reading Complaint Counsel’s pretrial brief, however, because those qualifications are once again entirely omitted from Complaint Counsel’s descriptions or paraphrasing of the ads. But again, reasonable consumers do not ignore such language, so the language defeats Complaint Counsel’s notion that the ads implied that *all* TurboTax products were free.

The analysis does not change if the Court instead asks whether Intuit deceptively used the phrase “simple tax returns” to mislead people into believing that a free offer was free for them, specifically, when it was not. For one thing, Complaint Counsel claim (Pretrial Br. 38) that disclosure was “too inscrutable to alter” a reasonable consumers’ understanding of the ads. Moreover, it is irrelevant whether reasonable consumers understood the precise meaning of “simple tax returns.” What matters is that the phrase conveys, at the very least, that Free Edition is not appropriate for more complex tax returns. *See, e.g.*, GX155 (Rubin IH Tr.) at 55:16-18 (“simple tax returns ... let[s] consumers know that there are eligibility requirements for using

TurboTax Free Edition.”). Multiple consumers confirmed an “understand[ing] that some people do not have simple tax returns.” GX136 (Schulte Dep. Tr.) 70:19-21; *accord* GX138 (Adamson Dep. Tr.) 69:15-70:2 (similar); GX135 (Phyfer Dep. Tr.) 66:10-12, 18-23 (similar).

If a reasonable consumer does not know if she has a “simple return,” she does not leap to the conclusion that she does and thus can file for free. Rather, as Professor Golder will explain, she investigates further—and the challenged ads made clear where she (and other consumers) could find the needed information, inviting them to “see if [they] qualify” or “see details” on the TurboTax website. RX1018 (Golder Rep.) ¶103; *see supra* pp.20-27, 32-33. That invitation is part of the ad’s overall message, and thus further undermines the idea that the ads implied that all TurboTax products are free, because reasonable consumers understand and follow such advice. *See* GX124 (Bodi Dep. Tr.) at 15:20-16:8 (recognizing the TurboTax website “clearly identified if you had a simple tax return”); GX128 (Benbrook Dep. Tr.) at 28:16-29:10 (recognizing that clicking on a hyperlink on the TurboTax website would provide additional details about what qualifies as a simple return); GX137 (Dukatz Dep. Tr.) at 67:3-15 (similar). Online, the FTC recognizes that this type of research is the norm. Complaint ¶¶8-9, Docket No. 9372, *1-800-Contacts, Inc.* (Aug. 8, 2016). And of course, saying “see if you qualify” is itself qualifying language to the free claim, further demonstrating that Complaint Counsel’s theory that Intuit is making unqualified free claims is unfounded. As the Ninth Circuit recently explained, “[t]o analyze whether ... ambiguity could mislead a reasonable consumer,” courts should “consider[] other information readily available to the consumer that could easily resolve the alleged ambiguity.” *Moore v. Trader Joe’s Co.*, 4 F.4th 874, 882 (9th Cir. 2021). The Seventh Circuit has likewise recently “st[oo]d by the general principle that deceptive advertising claims should take into account all the information available to consumers.” *Bell v. Publix Super Markets, Inc.*, 982 F.3d 468, 477 (7th Cir. 2020).

Applying that principle, one court recently held that “the mere fact that each advertisement [for a warranty] did not set forth all the details or requirements of the Warranty *on the advertisement* does not indicate” deception, because “[t]he advertisements informed consumers to review the Warranty for full details, and the full details were included in the warranty booklet.” *Marksberry*, 606 F. Supp. 3d at 1083. Referring consumers to the TurboTax website for further information was even more reasonable than the reference to the warranty booklet in that case, moreover, because consumers seeing any of the challenged TurboTax ads *had* to visit the website to actually use Free Edition. In fact, even Complaint Counsel’s rebuttal expert, Dr. Yoeli, absorbed the overall message that the ads (including the qualifying language) conveyed, agreeing that if he was uncertain whether he qualified to file for free, he would click the link on the TurboTax website to find out. RX1396 at 160.

Complaint Counsel argue, however, that the qualifying language in Intuit’s video and website ads was inadequate because the term “simple tax returns” is supposedly “anything but simple and changes regularly.” Pretrial Br. 43; *see also id.* at 40. This myopically focuses on only one piece of the qualifying language, but even on its terms is wrong. The definition does *not* change regularly; it has consistently aligned with the IRS’s definition, and thus changed only when the IRS changed its entire form structure. And in any event, it is black-letter law that the “reasonable consumer understands” concepts that “are commonplace in the [relevant] market,” *Ebner v. Fresh, Inc.*, 838 F.3d 958, 965 (9th Cir. 2016). “Simple tax returns” is one such concept, *see* RX82; RX83; RX97; RX98; RX359 (competitor ads referencing “simple returns”). That is especially so when, as in the challenged ads, “simple” is used in its ordinary sense, i.e., to “let folks know that [Free Edition’s] eligibility requirements are tied to the complexity of their tax return,” GX155 (Rubin Dep. Tr.) at 55:12-20. Even Dr. Yoeli acknowledged that, based on the term “simple tax returns only,” he would “probably not” qualify for Free Edition because he

has “somewhat complicated taxes.” RX1396 (Yoeli Dep. Tr.) at 188:3-18, 195:21-196:15; *see also* RX1392 (Novemsky Dep. Tr.) at 48:6-19 (“[F]or TurboTax I would say that you can view the requirements needed to qualify for a simple tax return on their Website.”); RX1329 (“When you sign up for a tax service like H&R Block or TurboTax, you can view the requirements needed to qualify for a simple tax return and details on what is included.”).

b. *Free-Offer Qualifications Were, And Are, Adequately Conveyed*

The qualifying language in the challenged ads was “sufficiently prominent” to ensure that consumers would see (and in many cases, also hear) it. *Removatron Int’l Corp. v. FTC*, 884 F.2d 1489, 1497 (1st Cir. 1989). Indeed, the language was always presented in a manner that courts have consistently deemed adequate.

For example, all television advertisements between Tax Years 2014 and 2021 identified in the title card the specific SKU or offer being advertised. All television ads also included qualifying language at the bottom of the screen, language presented (except in Tax Years 2015 and 2017) “in the closing seconds of the commercial,” “consistent with ‘the norm of reasonable business practice’” in TV advertising. *Estrella-Rosales v. Taco Bell Corp.*, 2020 WL 1685617 at *2 (D.N.J. April 7, 2020). As Professor Golder explained, placing disclosures at the bottom of the screen, where Intuit’s competitors and other comparable companies also place their disclosures, “is standard in TV ads, and therefore consumers are conditioned to look for any disclosures in this location. Moving such a disclosure location would be out of step with industry norms and may reduce the likelihood that consumers would see the disclosure.” RX1018 (Golder Rep.) ¶132. Tax Year 2020 and 2021 radio advertisements similarly included clear audio disclosures at the end identifying the free product and the qualifications. *Supra* p.27. And all other ads, whether display, paid search, or email, included written qualifying language

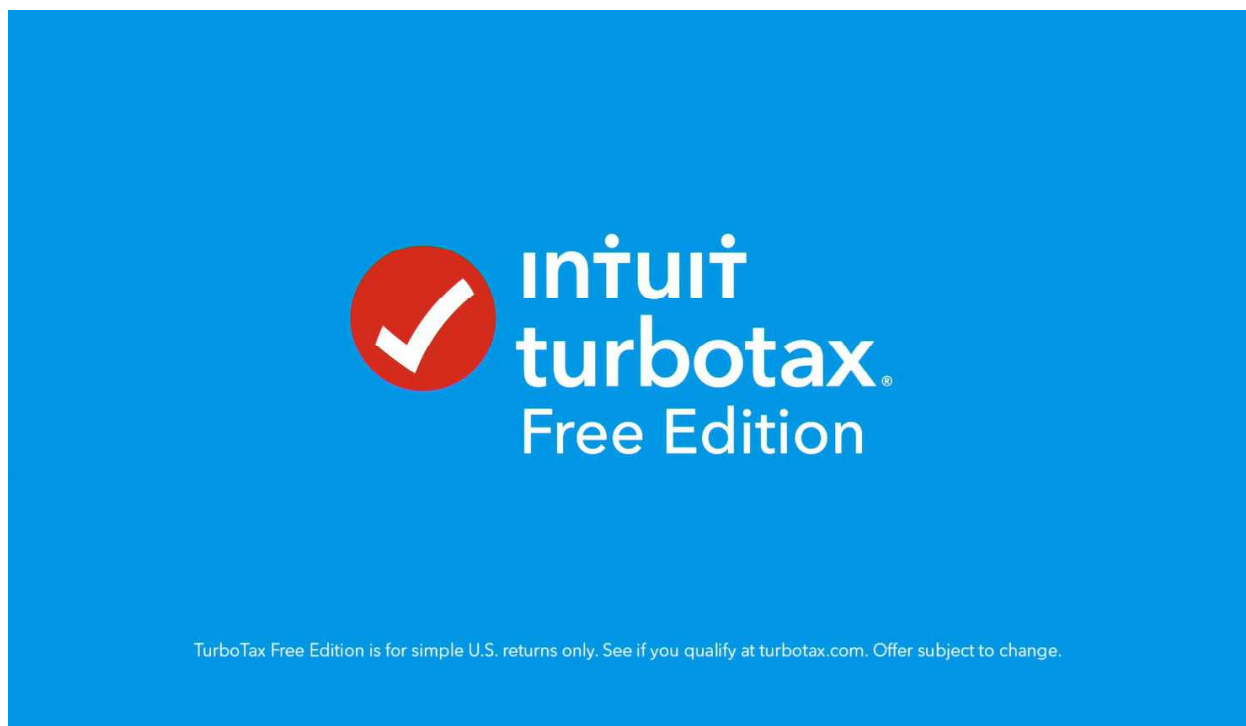
“immediately next to the representation[],” such that “no reasonable reader could ignore it,” *Freeman v. Time, Inc.*, 68 F.3d 285, 289 (9th Cir. 1995); *supra* pp.20-27, 32-33.

A close examination of Intuit’s current ads shows that Complaint Counsel’s allegations of inadequate disclosure are even more untenable. To the contrary, Intuit’s free ads now not only feature the specific service the offer applies to, but also prominent text appears in contrasting color and font explaining that the offer is for “[s]imple returns only,” or other similar language, and encouraging the viewer to visit Turbotax.com to “see if you qualify.” *Supra* pp.32-33. Indeed, some of these ads—including shorter ones on social media channels such as TikTok—present the qualifying language for the entire length of the ad. *E.g.*, RX1480.

A holistic analysis performed by Professor Golder confirms that the challenged ads do not hide the qualifying language. Instead, Professor Golder concluded that the ads contain disclosure and design elements that are both consistent with the FTC guidelines, marketing literature, and comparable to relevant benchmark companies and industry standards, to which the reasonable consumer is accustomed. *See* RX1018 (Golder Rep.) ¶¶127-137. In other words, Intuit’s ads do not stand out as unusual in any way from the ads that run on television all day long.

Complaint Counsel posit (Pretrial Br. 39) that Intuit’s video-ad disclosures were inadequate because they were “frequently in writing only” and not read aloud. But there is no requirement that qualifying language be read aloud to prevent deception. As explained, moreover, *see supra* pp.21-24, 32-33, many Intuit video ads *have* included qualifying language in both text and audio, including express representations that the product being advertised is TurboTax Free Edition. *See, e.g.*, RX376, 584, and 598. The inclusion of audio disclosures actually sets Intuit’s ads apart from most on television. *See* RX1521 at 8.

Complaint Counsel next assert (Pretrial Br. 39-40) that the qualifying language in Intuit’s video ads appeared in “faint type” and was “disproportionately small and not readable.” But that too is the subjective opinion of Complaint Counsel’s lawyers, not what the facts and evidence support and again, it is inconsistent with what consumers actually see. The testimony in the record is that the text is visible, “not ... disproportionately smaller” than the language it qualified, GX161 (Maxson Dep. Tr.) at 217:1-2, and “larger and statistically significantly different than those of benchmark companies,” RX1018 (Golder Rep.) ¶132. This case is thus a far cry from the case Complaint Counsel cite, which involved an advertisement ““the perusal of which would reveal ... *no* indication”” of the allegedly concealed product information. *FTC v. Cyberspace.Com LLC*, 453 F.3d 1196, 1201 (9th Cir. 2006) (emphasis added). In any event, disclosures are routinely deemed adequate even where their text is “smaller than most of the text in the advertisement,” *DirecTV*, 2018 WL 3911196, at *8; *accord Freeman*, 68 F.3d at 287; *Castagnola v. Hewlett-Packard Co.*, 2012 WL 2159385, at *10 (N.D. Cal. June 13, 2012). And as shown in the exhibit reproduced immediately below, the disclosure that the challenged ads are for TurboTax *Free Edition* and not “TurboTax” could not be clearer; indeed, Complaint Counsel do not argue otherwise.



RX699 (TY2021)

Complaint Counsel also say that the qualifying language in Intuit’s video ads appeared for “just a few seconds.” Pretrial Br. 40. But again, Complaint Counsel are making up a non-existent requirement, this time that qualifying language appear for some (unspecified) minimum amount of time. No such requirement exists; advertising in which a disclosure appears only “in the closing seconds of the commercial,” has been held adequate as a matter of law and is indeed commonplace on television. *Estrella-Rosales*, 2020 WL 1685617, at *2. This is unsurprising, given that “anyone familiar with television ads for consumer products knows that these disclaimers are often presented at the end of the ad.” *Id.*; see also *Brown v. Federal Election Comm’n*, 386 F. Supp. 3d 16, 23 (D.D.C. 2019) (“To comply with [its] disclaimer requirement, the FEC says, all Brown has to do is state [the relevant information] at the end of her ad.”). The amount of time the qualifying language appeared here was particularly appropriate given the clarity and simplicity of the disclosures at issue, which took only a few seconds to communicate and digest. RX1018 (Golder Rep.) ¶¶105, 135. As noted, moreover, Intuit’s disclosures

appeared at the bottom of the screen and toward the end of ads, which is where and when consumers are conditioned to look for them because that is where they typically air. See RX1018 (Golder Rep.) ¶¶131-132. Finally, courts routinely hold that a disclosure is adequate if it “put[s] consumers on notice that the complete details of the” offer can be found elsewhere. *Platt v. Winnebago Indus., Inc.*, 960 F.3d 1264, 1277 (10th Cir. 2020); *accord Marksberry*, 606 F. Supp. 3d at 1083 (“the mere fact that each advertisement did not set forth all the details or requirements of the Warranty *on the advertisement* does not indicate” deception because “[t]he advertisements informed consumers to review the Warranty for full details, and the full details were included in the warranty booklet”); *Estrella-Rosales*, 2020 WL 1685617, at *2 (a disclosure that a fast-food promotion was available “[a]t participating locations for a limited time” and that “[p]rices may vary” was “consistent with ‘the norm of reasonable business practice’” in television advertising and sufficient to put reasonable consumers on notice of the promotion’s restrictions). Intuit’s disclosures are far clearer and precise than “prices may vary.”

As for the qualifying language on the TurboTax website, Complaint Counsel incorrectly claim (Pretrial Br. 42) that Intuit’s use of hyperlinks violates the FTC’s “.com Disclosures” guidelines. These guidelines (like the so-called free guide that Complaint Counsel treat as gospel) “do not constitute binding law and violation of the guidance publications do not establish a violation of the FTC Act.” Order Denying Resp’t Mot. for Disc. Pursuant to Rule 3.36 at 4 (Nov. 7, 2022). That aside, the guidelines state only that “[d]isclosures that are an *integral part of a claim* or inseparable from it should not be communicated through a hyperlink.” Pretrial Br. 42. Here, the fact that Free Edition has qualifications—which is the integral point because it makes clear that not all TurboTax products are free—is communicated by the hyperlinked text itself, including the “see if you qualify” or “simple returns only” language. Intuit’s use of hyperlinked disclosures is thus unlike the “[s]ymbols or icons” that the FTC’s guidelines

disapprove, which “by themselves are not likely to be effective” because they do “not provide sufficient clues about why a claim is qualified or the nature of the disclosure.” RX96 at 12. (Indeed, Intuit’s hyperlinked disclosures resemble the examples of *acceptable* hyperlinked disclosures in the agency’s guidelines. *See id.* at A-8.). Reasonable consumers, moreover, understand that they can click hyperlinks to learn more information, *cf. Dohrmann v. Intuit Inc.*, 823 F. App’x 482, 484 (9th Cir. 2020) (“TurboTax’s website ... provided sufficient notice to a reasonably prudent internet user” because “[t]he relevant warning language and hyperlink ... were conspicuous”), and there is no reason offered beyond Complaint Counsel’s unsupported assertions to believe otherwise.

Not only were the qualifications in Intuit’s ads sufficiently prominent and clear, more thorough disclosures would likely have been counterproductive. Articulating every detail of every possible tax situation in an advertisement—especially a short video advertisement—in the way Complaint Counsel appear to envision, likely would have induced “cognitive overload” with consumers. RX1018 (Golder Rep.) ¶¶26, 125, 231; *cf. MHC Mut. Conversion Fund, L.P. v. Sandler O’Neill & Partners, L.P.*, 761 F.3d 1109, 1117 (10th Cir. 2014) (“[r]equiring more extensive disclosure” by securities issuers might “do more to invite information overload than materially benefit the consumer”). Even Complaint Counsel’s expert, Nathan Novemsky, opined that the disclosures Complaint Counsel would require could not be “effectively communicated in a 30-second ad,” RX1392 (Novemsky Dep. Tr.) at 316:19-20, and that such an ad is “not a place” to “try to share lots of or complicated information with consumers” because “[t]hey can’t ... and won’t process that,” *id.* at 317:19-318:3. He further stated that a six-second TikTok ad would be “even less appropriate for complicated information,” because “six seconds isn’t very long to get something across in a way that consumers would actually meaningfully absorb it.” *Id.* at 318:4-14.

Finally, as one Intuit executive has explained, it would have been a “terrible” idea to include much more detail in TurboTax TV ads about what tax forms were covered by Free Edition because people did not understand their tax situations in the context of specific forms, *see* GX155 (Rubin IH Tr.) at 209:7-210:7—a problem exacerbated by the IRS’s substantial changes to its forms a few years ago, *see supra* p.19. Another executive similarly explained that providing more details, like “disclos[ing] whenever it uses the word ‘free’ in any marketing communication that a majority of taxpayers do not qualify to use the free product,” would “have a very negative effect on the ability for simple tax filers to understand that they *are* able to file for free and, as a result, would reduce the overall usage of free filing tax products for simple tax returns.” GX146 (Ryan Dep. Tr.) at 128:1-18 (emphasis added).

c. *Consumer Testing Confirms That The Challenged Ads Did Not Convey That All TurboTax Products Are Free*

If the ads themselves left any doubt about whether Intuit’s advertising falsely implied to any consumers that they could file for free with TurboTax, consumer testing dispels that doubt.

To begin, [REDACTED]

[REDACTED]

[REDACTED] GX460 at CC-00009559, CC-00009563. Given that, it defies logic to say (as Complaint Counsel do (Pretrial Br. 22)) that ads *with* qualifying language—i.e., the ads that actually ran—wrongly implied to any meaningful number of consumers that they could file for free.

Complaint Counsel argue, however, that another Intuit test, from Tax Year 2018 (the “TY18 Test”), *see* GX340, shows that Intuit’s ads implied that consumers ineligible for Free Edition could still file for free with TurboTax. Pretrial Br. 22. The TY18 Test shows no such thing. For one, the test showed viewers *draft* ads that lacked the qualifying language found in the ads that actually ran. GX340 at 43. Moreover, the test measured neither viewers’ assessment of their own ability to file for free nor the effectiveness of the ads’ qualifying language; it

examined how certain draft ads performed in “[c]ommunicating the key message” of an ad “in an emotional way” and positioning Intuit’s “CPA on demand feature as new and different.” *Id.* at 2. Indeed, the primary focus of this research was an ad that did not concern Free Edition. GX146 (Ryan Dep. Tr.) at 96.

In arguing otherwise, Complaint Counsel point (Pretrial Br. 11) to the statement in the test results that “[a]ds communicate the parent brand, TurboTax well, however, only about ~5% take away the sub brand (TurboTax Free, TurboTax Live),” GX340 at 7. This statement merely reflected unaided responses to a specific, open-ended question: “Which brand do you think this ad was for?” *Id.* at 14. Understandably, most consumers would consider the relevant brand to be TurboTax. TurboTax Free Edition is a specific SKU, which respondents were not asked to identify.

Complaint Counsel also quote (Pretrial Br. 11, 22) language from the TY18 Test about consumers’ supposed belief that they “can file [their] taxes for free,” GX340 at 15. But that language says nothing about whether respondents believed they could file for free *using TurboTax Free Edition* (or, indeed, using TurboTax at all). And even if it did, the population of survey respondents skewed heavily toward consumers who would, in fact, qualify for Free Edition. GX340 at 3; GX159 (Ryan Dep. Tr.) at 120:8-17.

Lastly, Intuit’s testing shows that the percentage of consumers who believed they could file for free with TurboTax almost exactly matched the percentage who could in fact file for free.

These results have been repeated on numerous occasions. For example, [REDACTED]

[REDACTED]

[REDACTED] RX592 at INTUIT-FTC-PART3-

000602669. [REDACTED]

[REDACTED] *Id.* at INTUIT-FTC-PART3-000602703. [REDACTED]

[REDACTED]

[REDACTED]

qualified to use Free Edition but rationally chose to use a paid TurboTax product to maximize their refund. RX1027 (Deal Rep.) ¶¶112-115 (describing population of [REDACTED] [REDACTED] who qualified to use Free Edition but rationally chose to use a paid product to gain access to optional credits and deductions). This close match between expectation and reality is a strong indication that Intuit’s ads did not imply the false message Complaint Counsel claim.

d. *Intuit Has Never Intended To Convey That All TurboTax Products Are Free*

As the Commission has recognized, an advertiser’s “intent is powerful evidence” of the claim that “in fact was conveyed to consumers.” *Telebrands*, 140 F.T.C. at 304. Intuit’s intent in marketing its free offers, consistent with its broader business incentives, was to convey that those offers were free for qualifying consumers. As one executive has testified, “the intent ... of advertising the TurboTax Free Edition is to make sure that we are communicating that for those customers who have simple tax returns, ... there is a free option with the TurboTax Free Edition for those who qualify.” RX149 (Crosby Dep. Tr.) at 84:6-12; *accord*; RX156 (Ryan IH Tr.) at 110:16-20, 130:18-131:1. Intuit wanted to convey this message because, as explained, it hoped that consumers with simple tax returns would have a good experience filing for free with Free Edition, and thus would use an Intuit paid product if in future years they had more complex tax situations. *See supra* pp.28-29.

This long-term strategy aligns with Intuit’s economic incentives in the competitive tax-preparation industry. First, companies in that industry are unusually reliant on repeat customers, given the relatively fixed population of tax filers. RX1027 (Deal Rep.) ¶26. Second, consumers have many choices when it comes to tax preparation, as well as the ability to change tax-prep

providers easily. *Id.* ¶¶51, 53. In fact, many providers make it easy for a consumer to import data from a previous year’s return submitted using a *different* provider. *Id.* ¶53. Intuit’s competitors even advertise this feature in trying to lure Intuit’s customers. *See* RX899 (March 4, 2022 H&R Block Ad); RX1027 (Deal Rep.) ¶53. Accordingly, “[h]aving millions of short-term, dissatisfied customers who became victims of a ‘bait and switch’ program” like Complaint Counsel theorize “would eliminate future revenue streams from the deceived customers, would spread negative perceptions of Intuit, and would not be economically rational.” RX1027 (Deal Rep.) ¶11. Intuit thus conveys that there are qualifications to use Free Edition precisely because it wants customers “satisfied with their experience and com[ing] back year after year.” GX155 (Rubin IH Tr.) at 213:7-9. If customers were “not aware” of Free Edition’s qualifications and attempted to use it, “they would be upset and they wouldn’t want to come back year after year.” *Id.* at 213:12-15. Put differently, because Intuit’s reputation is “critical for [Intuit’s] business success,” it would “stop immediately” any conduct that it believed endangered that reputation or created consumer pain points. GX146 (Ryan Dep. Tr.) at 125:6-126:8; *see also United States v. H & R Block, Inc.*, 833 F. Supp. 2d 36, 75 (D.D.C. 2011) (noting “the importance of reputation and brand in driving consumer behavior in purchasing [Digital Do It Yourself] products”).

Intuit’s intent to advertise *only* Free Edition—and not the paid TurboTax products—as free is confirmed by its efforts to improve its free ads over the years. In Tax Year 2019, for example, Free Edition television ads were changed to emphasize the name “Free Edition.” GX692. And in Tax Year 2021, a voiceover was added telling consumers to “see details at TurboTax.com.” GX711. It is also shown by Intuit’s continued expansion of the features available in the Free Edition product. GX640 at INTUIT-FTC-PART3-000485805. These improvements and others further undermine Complaint Counsel’s claim that any of the challenged ads was deceptive. *Cf. DirecTV*, 2018 WL 3911196, at *18 (“DIRECTV’s ...

following through on a number of improvements does not support a finding that the company violated the FTC Act. If anything, this evidence further underscores how this case is very unlike the straightforward deception cases upon which the FTC purports to rely.”).

B. Reasonable Consumers Were Not Deceived By Intuit’s Advertising

1. Intuit’s Ads Were Not, And Are Not, Deceptive Door Openers

Complaint Counsel concede (Pretrial Br. 44) that consumers without simple tax returns learned that was true “prior to purchasing a paid version of TurboTax.” Indeed, the evidence makes plain that reasonable consumers are made aware of this information *far* in advance of the point of purchase—if not from the qualifying language in Intuit’s ads then from the disclosures they necessarily encountered on the TurboTax website before they began preparing their taxes, *see supra* pp.20-27, 32-33; *see also* Order Directing Further Proceedings and Specifying Facts Without Substantial Controversy ¶7 (Jan. 31, 2023). Complaint Counsel resist this fact, contending that the evidence “show[s] that it takes nearly [a] quarter of an hour and pages of data entry to reach the hard stop related to student loan interest deductions.” Pretrial Br. 5 n.12 (citing GX240). But the cited exhibit actually shows that it takes *less than one minute*—and *no* data entry—to encounter a “simple tax returns” disclosure and a dropdown menu providing details about the scope of Free Edition and the meaning of hyperlink. GX240. These facts strongly cut against (if not foreclose) any finding of deception.

Complaint Counsel note, however, that “when the first contact between a seller and a buyer occurs through a deceptive practice, the law may be violated even if the truth is subsequently made known to the purchaser.” Pretrial Br. 44 (citing *FTC Statement on Deception*, 103 F.T.C. at 180 & n.37). Complaint Counsel embrace such a “deceptive door opener” theory, claiming that the ubiquitous disclosures on the TurboTax website are effectively irrelevant because Intuit’s other ads lure consumers to the website by falsely conveying that

consumers can file for free, and that alone is enough for liability. *See* Pretrial Br. 5, 8, 10, 44. That claim is both factually and legally infirm on these facts and ignores how reasonable consumers act in this industry.

a. As a factual matter the ads did not, as explained, convey that consumers ineligible for Free Edition can file for free with TurboTax. *See supra* pp.36-50.

Moreover, a “Disclosure Efficacy Survey” conducted by Dr. Hauser indicates that Intuit’s ads did *not* serve as “door openers.” Dr. Hauser tested an ad that did not repeat the word “free” and that included even more conspicuous and comprehensive written and verbal disclosures than the challenged ads, to determine whether those revisions affected both respondents’ consideration of “Vertax” (the survey’s disguised TurboTax brand) and their ultimate product selection. RX1017 (Hauser Rep.) ¶90, App’x C-1-6. If Intuit’s ads served as “door openers,” respondents who saw that revised ad would be substantially less likely to consider starting their taxes with Vertax than respondents who saw the challenged ads. *Id.* ¶91. But as Dr. Hauser explains, the survey results show that the ad revisions led to no statistically significant difference in respondents’ willingness to start their taxes using Vertax. *Id.* That is the exact opposite of what should happen if Complaint Counsel’s claims were true.

b. Even if Complaint Counsel’s allegations were supported by the evidence, their “deceptive door opener” theory would fail legally. Complaint Counsel rely on the FTC’s statement that “when the first contact between a seller and a buyer occurs through a deceptive practice, the law *may* be violated even if the truth is subsequently made known to the purchaser.” Pretrial Br. 44 (emphasis added) (citing *FTC Statement on Deception*, 103 F.T.C. at 180 & n.37). But as the word “may” reflects, the door opener theory does not always apply. And relevant authorities and logic show it does not apply here.

To start, the Commission itself has explained that, far from being *per se* inadequate, point-of-sale disclosures (and again, the TurboTax website disclosures occur far in advance of the point of sale) can be sufficient, “depending on the circumstances,” *FTC Statement on Deception*, 103 F.T.C. at 180 n.37. And the circumstances here make Intuit’s disclosures sufficient, as it is simply not possible to set out in space-constrained formats elaborate details about which tax forms are and are not covered by which TurboTax products. RX1018 (Golder Rep.) ¶¶114-115. No other companies and even the IRS and state taxation authorities can fit every qualifying detail in their advertisements. At least Intuit tries, unlike many others. Ultimately, authorities confirm the adequacy of *point-of-sale* disclosures in the online context. *See Washington v. Hyatt Hotels Corp.*, 2020 WL 3058118, at *5 (N.D. Ill. June 9, 2020) (dismissing a deceptive-advertising claim where resort fees were disclosed during the online-booking process rather than in ads); *Harris v. Las Vegas Sands L.L.C.*, 2013 WL 5291142, at *2, *5-6 (C.D. Cal. Aug. 16, 2013) (similar). Intuit’s disclosures occur far earlier.⁷

This case’s overlap with *DirecTV* likewise (though independently) shows that the “door opener” theory is inapposite. *DirecTV* held that theory “inapplicable” there because (1) “nothing in [the challenged ads] contradict[ed] the true terms of DIRECTV’s provision of services” and (2) “for a complex product like subscription satellite television services, a reasonable consumer would understand the limitations of how information is presented in a” space-constrained ad. 2018 WL 3911196, at *15. Both points apply equally here.

Complaint Counsel’s cited cases (Pretrial Br. 44) only confirm that the theory is misplaced here. In *Resort Car Rental Systems, Inc. v. FTC*, 518 F.2d 962 (9th Cir. 1975), a

⁷ The Illinois and California consumer-protection laws at issue in the cases just cited are interpreted in step with the FTC Act. *See* 815 Ill. Comp. Stat. §505/2; *In re Firearm Cases*, 126 Cal. App. 4th 959, 980 (2005).

rental-car company misleadingly advertised that its rentals cost a “Dollar-A-Day,” only to reveal the true price once consumers visited a brick-and-mortar facility, *id.* at 964. Unlike there, where the product advertised was not available at the advertised price for *anyone*, here the product advertised as free *is* free for millions of people. And unlike in *Resort Car*, where consumers learned the product’s true cost only after traveling to a physical location to rent a car, here consumers enjoy detailed information right at their fingertips (and accessible in seconds). In fact, it is impossible for consumers to avoid that information because they must visit the TurboTax website to use Free Edition or any other TurboTax product. Two of Complaint Counsel’s remaining cases—*Grolier, Inc.*, 99 F.T.C. 379 (1982), and *Encyclopedia Britannica, Inc.*, 87 F.T.C. 421 (1976)—are similarly far afield, involving door-to-door salesmen who used deception “to gain entrance into prospects’ homes,” *id.* at 496; *Grolier*, 99 F.T.C. at 379. Finally, *FTC v. E.M.A. Nationwide, Inc.*, 767 F.3d 611 (6th Cir. 2014), a telemarketing case, is also irrelevant. Telemarketing involves person-to-person interaction and hence a capacity for coercion not present in the online context. That is why Congress has instructed the FTC to issue rules preventing “telephone calls which the reasonable consumer would consider coercive,” 15 U.S.C. §6102(a)(3)(A). Even Complaint Counsel do not allege coercion here.

The analogies Complaint Counsel proffer are even more strained than their cited case law. Visiting the TurboTax website—an activity that takes mere seconds and is required to use a TurboTax product—is not remotely like spending “four hours” constructing an IKEA wardrobe. Pretrial Br. 25 (citing GX137). Nor can visiting the TurboTax website reasonably be compared to fully booking a “vacation,” buying “a plane ticket,” and flying all the way “across the country.” *Id.* (citing GX137). To the contrary, we are talking anywhere from just a few seconds to a matter of minutes, RX1027 (Deal Rep.) ¶82, with consumers notified that they are not qualified for a Free Offer as soon as information indicating as much is entered, *supra* p.18.

The Commission’s order denying Complaint Counsel’s summary-decision motion suggested in dicta (at 13) that limiting the “deceptive door opener” theory to “physical, in-person sales” would “leav[e] a huge enforcement gap with respect to misleading representations in modern commerce.” But no such limitation is necessary to rule for Intuit; this Court need only address the facts and circumstances *of this* case, as the Commission’s own *Deception Statement* requires, 103 F.T.C. at 180 & n.37. And the facts here reveal that the door-opener concept simply makes no sense. Indeed, Complaint Counsel do not point to consumers, let alone a significant minority of such consumers, who were deceptively induced to the TurboTax website. Even the few complaining customers they can muster cite other reasons for visiting the website including ease of use, reputation, and product familiarity. *See, e.g.*, GX137 (DuKatz Dep. Tr.) at 28:17-29:3 (ease of use); GX130 (Tew Dep. Tr.) at 15:10-16:3 (familiarity, ease of use); GX136 (Schulte Dep. Tr.) 25:25-26:14 (same).

2. Reasonable Consumers’ Familiarity With the Industry And Skepticism Towards Free Claims Prevents Misimpressions

To prevail here, Complaint Counsel must prove that Intuit’s advertising was deceptive to “not just any consumers,” but to “consumers acting reasonably” in the context of the online tax-preparation market. *Southwest Sunsites, Inc. v. FTC*, 785 F.2d 1431, 1436 (9th Cir. 1986). They cannot do so.

A “reasonable consumer understands” concepts that “are commonplace in the [relevant] market,” *Ebner*, 838 F.3d at 965, and is clearly more sophisticated than Complaint Counsel’s theory of deception would allow. For example, consumers in the automobile industry understand that “[a] warranty, even a lifetime warranty, often has requirements associated with it.” *Marksberry*, 606 F. Supp. 3d at 1081. In the context here (online tax preparation), reasonable consumers view ads, including the challenged ads, against the backdrop of their prior experiences and expectations with free online products and services, and with taxes more

generally. As Professor Golder explained in his report, consumers’ familiarity with, and accompanying skepticism about, free offers means that consumers will likely expect and attend to restrictions on Intuit’s free offer, reducing the chance that any reasonable consumer not eligible for the free offer would be deceived by Intuit’s advertising into believing that TurboTax was free for her. *See* RX1018 (Golder Rep.) ¶¶174-175. One reason for consumers’ skepticism of any free offer is their understanding that for-profit companies cannot offer all their products for free. *See* RX1236. Consumer testimony confirms that consumers apply that understanding, and resulting skepticism, to TurboTax’s qualified free claims. *See, e.g.*, GX123 (Lee Dep. Tr.) at 14:12-15:6; GX135 (Phyfer Dep. Tr.) at 37:17-20; GX137 (DuKatz Dep. Tr.) at 26:23-24:20; GX124 (Bodi Dep. Tr.) at 14:7-18; GX125 (Beck Dep. Tr.) at 20:12-17, 43:17-44:4; GX138 (Adamson Dep. Tr.) at 22:21-23:3; GX139 (Derscha Dep. Tr.) at 22:11-23-22; GX130 (Tew Dep. Tr.) at 20:11-16. Intuit’s business documents confirm the same. RX595 at 17; RX379 at 28; *see also infra* pp.72-74.

Complaint Counsel argue (Pretrial Br. 35) that reasonable consumers expect a company like Intuit to provide TurboTax for free to all consumers simply because there are other online products and services—such as social-media platforms and streaming services like YouTube and Spotify—that they contend are “routinely offered to consumers completely free of charge.” But Complaint Counsel offer no evidence (just their own say-so) that consumers expect all products or services offered by the company to be 100% free. These examples, moreover, confirm that consumers are familiar with (and thus would expect) free offers to have certain restrictions while being accompanied by paid options. Spotify, for example, offers a free version of its product that requires consumers to view ads, alongside a paid version that is ad-free. *See* RX410, RX802. Google similarly offers a basic free version of its mail service alongside a paid version that includes more features. RX1505. TurboTax likewise offers a “basic” product for free (if

consumers have “simple” returns), and charges for assisting with more complex returns. Again, Intuit’s advertising and practices are standard and well understood by reasonable consumers. It is seemingly only Complaint Counsel that feel differently.

Complaint Counsel fare no better with their reference to Cash App Taxes (Pretrial Br. 35), a purported competitor of TurboTax’s that offers free online tax-preparation services that Complaint Counsel say are available to “all consumers.” As an initial matter, Cash App Taxes engages in “very little marketing” and is used by few consumers, RX45 at INTUIT-FTC-PART3-000484795, making it unlikely that most reasonable consumers would draw any conclusion about TurboTax based on Cash App Taxes. Moreover, Complaint Counsel are flat out wrong that Cash App Taxes is free to “all consumers.” Consumers cannot use Cash App Taxes if their tax returns require them to file certain federal forms or schedules (such as Schedule J, Schedule K-1, or Form 1116, all of which *are* supported by various TurboTax products). RX1503; *see also* RX1504. Given all this, reasonable consumers would not infer that TurboTax is free for everyone even if they were among the few aware of Cash App Taxes.

What Complaint Counsel’s argument proves is that a reasonable consumer might, however, look to other industry participants. If that happened, Complaint Counsel’s argument would fall apart because those better-known participants use the same complexity-based business model as TurboTax.

3. The Evidence Does Not Establish That Reasonable Consumers Were Deceived

Complaint Counsel fails entirely to meet their burden of proving deception. To the extent the ads themselves are viewed as potential evidence of deception, the fact that the claims implied in those ads were that Intuit’s free offers were qualified, *supra* pp.38-51, defeats an inference of deception. And because it is not reasonably clear from the face of the advertisement that reasonable consumers take away the alleged implied false message, Complaint Counsel must

produce sufficient extrinsic evidence to prove deception. *United States v. Bayer Corp.*, 2015 WL 5822595, at *11 (D.N.J. Sept. 24, 2015); *accord FTC v. National Urological Grp., Inc.*, 645 F. Supp. 2d 1167, 1193 (N.D. Ga. 2008), *aff'd* 356 Fed. Appx. 358 (11th Cir. 2009). Far from aiding Complaint Counsel's case, the available evidence refutes any notion that consumers were deceived.

a. *The Miniscule Number Of Complaints Are Not Evidence Of Widespread Deception*

Complaint Counsel contend (Pretrial Br. 23-27) that a few hundred consumer complaints (out of millions of customers) and testimony from a handful of consumers provide evidence of widespread deception. That is incorrect.

i. Complaints That Should Be Stricken Because They Are Not Related To The Allegations

To begin with, this Court excluded “[e]vidence of consumer complaints that are unrelated to the alleged deceptive acts and practices—including, without limitation, complaints regarding the amount of the complainant’s tax refund, delays in receiving tax refunds, the purported deletion of TurboTax customer accounts, issues accessing data on adjusted gross income, issues importing tax data into paid products, rideshare and other non-income-related discounts, and TurboTax Canada.” Order on Motions *In Limine*, at 7 (Mar. 7, 2023). Many of the complaints on Complaint Counsel’s exhibit list fall into that category and thus are excluded.

For example, Complaint Counsel continue to rely on 24 complaints from its Sentinel Network that were submitted by individuals who never even started (let alone finished) their taxes using *any* TurboTax product. App’x B to Resp’t Mot. *In Lim. To Exclude Consumer Compls.* (Feb. 10, 2023). Other complainants whose deposition testimony Complaint Counsel cite (Pretrial Br. 23-25), meanwhile, testified that their complaints were not associated with TurboTax’s online products. GX134 (Hobson Dep. Tr.) at 10:19-24, 14:9-14; GX130 (Tew Dep.

Tr.) at 37:15-19; 38:16-39:9; GX137 (DuKatz Dep. Tr.) at 74:14-75:2; GX136 (Schulte Dep. Tr.) at 19:11-18; GX125 (Beck. Dep. Tr.) at 59:18-60:13. And still others had nothing to do with TurboTax's *advertising*. RX344 (Parvez Decl.); GX138 (Adamson Dep. Tr.) at 40:11-41:2; GX125 (Beck Dep. Tr.) at 26:13-28:15, 29:1-30:7; GX128 (Benbrook Dep. Tr.) at 16:23-17:4, 28:4-12, 28:21-29:1; GX136 (Schulte Dep. Tr.) at 35:25-36:20; 72:8-73. Complaint Counsel note (Pretrial Br. 47-48) that these consumers "testified that the cost of the tax filing services was important to them" or "remembered Intuit's free advertising." True or not, that is irrelevant to the issue here, which is whether any of the challenged ads was deceptive. Complaint Counsel are also wrong to present these deponents as somehow representative of reasonable consumers as a whole; they are not. They are from the miniscule set of consumer complaints flagged by Complaint Counsel and their testimony revealed them to be anything but reasonable in their expectations and recollections of using TurboTax.

ii. Sentinel Network Complaints

Complaint Counsel next cite (Pretrial Br. 25) 228 complaints from its Sentinel Network. Those complaints warrant no weight. Complaint Counsel and their investigator Diana Shiller made no effort to verify or otherwise substantiate these complaints. Indeed, Ms. Shiller confirmed that she attempted to contact only twelve complainants, and ultimately spoke to only two. *See* RX278-280; RX1390 (Shiller Dep. Tr.) at 115:16-116:5; *see also* GX161 (Maxson Dep. Tr.) at 353:14-354:13. Many of the complaints, moreover, are demonstrably inaccurate, do not reflect consumers' actual experiences, and do not otherwise indicate that the complainants were deceived by Intuit advertising. *See* RX344 (Parvez Decl.); App'x N to Resp't Mot. *In Lim.* To Exclude Consumer Compls. (Feb. 10, 2023). And the biased coding methodology that Complaint Counsel and Ms. Shiller used to identify and categorize the complaints is "terribly

flawed.” RX1394 (Golder Dep. Tr.) at 54:3-11. Independent coders found a dramatic overstatement of relevance in their results.

The context in which the complaints were created confirms that they should be given no weight. Dozens of the complaints expressly mention ProPublica reporting or litigation against Intuit (including this litigation) as the impetus for the complaint, App’x G to Resp’t Mot. *In Lim. To Exclude Consumer Compls.* (Feb. 10, 2023), and fifty others are from consumers whose claims Intuit has already resolved as part of a mass-arbitration settlement in 2022, *id.* at App’x C. As reflected in the complaints themselves, that context makes it likely that the complaints are simply parroting reporting, rather than describing consumers’ actual experiences.

Complaint Counsel have not offered any explanation for how these demonstrably unreliable complaints constitute any meaningful evidence that consumers were likely to be deceived. And even if all 228 *were* relevant and reliable, they represent only 0.0003% of the 86.4 million TurboTax customers who completed at least one return over that same time period (Tax Years 2015-2021). *Cf.* RX1018 (Golder Rep.) ¶68. Under no circumstances can such a tiny percentage constitute a “significant minority” of consumers. *See Telebrands*, 140 F.T.C. at 325 n.47 (“For this claim, the 3.9% net difference is not statistically significant. Thus, this result indicates nothing about consumer perception of this particular claim.”).

iii. Intuit’s Records Of Customer Complaints

Complaint Counsel then point (Pretrial Br. 26-27) to consumer complaints (from Intuit’s internal tracking system) about the pricing of various TurboTax products, and claim those show deception. But even putting aside that most of these are excluded under this Court’s order on Intuit’s motion *in limine*, these complaints encompass a variety of topics unrelated to consumers’ expectations about the ads challenged. *See* GX411 at 9. And while some consumers complained that they would like to pay less, that is not evidence of *deception*. Complaint Counsel also refer

in passing to consumer complaints from Intuit's internal tracking system related to changes in the Free Edition qualifications for Tax Year 2018. Pretrial Br. 27. As explained, *see supra* p.19, Intuit made those changes, in response to tax-law changes, to continue to align with the IRS's definition of a simple tax return, *see* RX81. The fact that some consumers expressed frustration with these changes, and with the resulting fact that certain tax situations previously covered by Free Edition no longer were, is not evidence of deception; to the contrary, it shows consumers were cognizant of the changes and were unhappy with them. Of course, just as general consumer satisfaction is not a defense to claims of deception, general consumer *dissatisfaction* is not evidence of deception. Order on Motions *In Limine*, at 7 (Mar. 7, 2023); *cf. id.* at 9.

iv. Consumer experiences

Metrics and analyses evaluating consumers' experiences with TurboTax show an absence of evidence that Intuit failed to meet consumers' expectations. If Intuit had engaged in a wide-ranging deceptive scheme to trick consumers into using TurboTax, as Complaint Counsel allege, one would expect to see considerable outrage from those consumers. Yet none of the available data reflects that reaction.

For example, Professor Golder's complaint-benchmarking analysis, *see supra* p.44, shows that consumers have *not* complained about TurboTax at rates indicative of widespread deception. The analysis reveals that Intuit's rate of BBB complaints (31.3 complaints per million customers) is statistically significantly less than that of other companies (191.2 complaints per million customers). If Intuit had engaged in a deceptive advertising campaign for years, the number of complaints would be vastly higher.

Mr. Deal's expert analysis of TurboTax's Tax Year 2021 customer base further demonstrates that the actual experiences of tens of millions of TurboTax customers are inconsistent with Complaint Counsel's allegations. Assessing real-world customer data, Mr.

Deal found that Complaint Counsel's allegations cannot apply to roughly 97.6% of those Tax Year 2021 individuals who explored using TurboTax that year. RX1027 (Deal Rep.) ¶12.

Specifically, Complaint Counsel's allegation cannot apply to the approximately: (1) [REDACTED] individuals who created or accessed a TurboTax account who explored TurboTax but did not file with it; (2) [REDACTED] TurboTax customers who did file their federal and state returns for free with TurboTax; or (3) [REDACTED] customers who either (i) demonstrated awareness of TurboTax paid products, (ii) demonstrated a revealed preference for paid add-on features, or (iii) expressed rational economic choice by using a paid product to maximize their refund. This actual evidence from customer-level data, Mr. Deal opined, is incompatible with Complaint Counsel's theory of deception. *Id.* ¶¶96-141. Mr. Deal will explain his methodology and reasoning during his hearing testimony.

Other metrics likewise demonstrate that consumers' experiences matched their expectations, not that they were the victims of a bait-and-switch scheme. If consumers had been lured to TurboTax with false or misleading promises, for example, they surely would not recommend it to others, or keep coming back themselves. Yet Intuit's Net Promoter Scores (a standard and well-respected measure of how likely customers are to recommend a company or product to a friend or colleague, RX504) for Tax Years 2012-2020, for both free and paid TurboTax products, were consistently comparable to (and frequently higher than) the NPS scores of other tax-preparation companies, including H&R Block and TaxAct. RX1018 (Golder Rep.) at fig. 1. Similarly, TurboTax customer-retention rates were approximately 80% year after year. *See supra* p.30. Intuit's even higher retention rates among paying customers, *see id.*, further undermine Complaint Counsel's theory, because those are the very customers purportedly deceived by Intuit's advertising. The tens of thousands of positive reviews for both Free Edition and paid TurboTax products likewise reflects that consumers have not complained in any

significant number about being misled, further refuting Complaint Counsel's deception theory.

See supra pp.29-30.⁸

b. *Intuit's Internal Documents Do Not Show That Consumers Were Deceived*

After four years of investigation, Complaint Counsel have found nothing in the hundreds of thousands of pages of internal documents Intuit has produced that corroborates their claims. The snippets they cite from a handful of documents lend no support.

For example, Complaint Counsel cite internal communications among Intuit employees regarding research on a single draft advertisement to argue that reasonable consumers are misled by ads into believing all TurboTax products are free. Pretrial Br. at 9, 30, 34, 38 (citing GX341). But as Ms. Ryan has explained, the research, which involved just "26 people pulled off the street," was done to understand whether an ad parodying the Boston Tea Party—and specifically a scene involving the use of a bayonet—would elicit polarized reactions in light of the then-prominent Tea Party movement. GX159 (Ryan Dep. Tr.) at 11:9-12:2. The research was *not* intended to assess anything else, and such a small survey about a single draft ad provides no basis to find that any consumers were deceived even by that ad, let alone that significant numbers of consumers were deceived by any of the hundreds of ads actually challenged here, none of which this research concerned. That ad, like all the others, stated that it was for the Free Edition product "only" and was for taxpayers with simple returns. GX321. No one who saw the ad believed that every TurboTax product was free, just like no one believed that TurboTax was

⁸ Consistent with the Court's March 7, 2023 order on the motions *in limine*, Intuit is not offering the above evidence to establish *general* customer satisfaction as a defense to liability. Intuit nonetheless preserves its argument that such evidence is relevant and admissible for any purpose. If a consumer believed that they were supposed to get a product for free and ultimately had to pay over \$100 for it, it is impossible to believe that they would express overall satisfaction with their TurboTax experience.

discussed during the Boston Tea Party itself. Again, Complaint Counsel fail to give reasonable consumers enough credit.

Similarly, Complaint Counsel cite an internal Intuit marketing document to support the notion that a message of “‘free’ is compelling and attracts customers,” Pretrial Br. 27 (citing GX57 at CC-00000646); *see also id.* at 11-12, 28, 34 (citing GX148 (Somers Dep. Tr.)). Here again, Complaint Counsel is grasping at straws. Of *course* a message of “‘free’ is compelling and attracts customers.” There likely is not a business in the world that would disagree with that. But so what? How does that do *anything* to show deception? Complaint Counsel notably does not say—because there is nothing coherent they could say. The Court should not indulge Complaint Counsel’s effort to obtain a deception finding by throwing out barely relevant point after barely relevant point, and then averring at the end that the deception is clear. More (much more) is required for Complaint Counsel to carry their burden here.

c. *Novemsky’s Questionnaire Is Not Evidence That Consumers Were Deceived*

Professor Nathan Novemsky is the only expert witness in Complaint Counsel’s case-in-chief. But the “survey” he conducted, as well as his opinions regarding the issues in this case, are unreliable and entitled to no weight.

To start, Professor Novemsky did not test any of the challenged ads or the TurboTax website. That is highly problematic, to say the least. Instead, as his rebuttal report acknowledges, Professor Novemsky’s survey was merely “an unaided test of respondents’ impressions at the time of the survey.” RX1345 ¶21. He did not show survey respondents any stimulus—not a single TurboTax ad—before asking them about their understanding of “whether they c[ould] file their [Tax Year 2021] taxes for free using TurboTax online software.” *Id.*; *see also* RX1392 (Novemsky Dep. Tr.) at 62:6-17, 71:4-6. These omissions are critical because, “[i]n the real world,” Intuit’s ads and website “convey additional information”—not considered

or tested by Professor Novemsky—that is “important to a consumer’s perception” of those sources. *Superior Consulting Servs., Inc. v. Shaklee Corp.*, 2021 WL 4438518, at *12 (11th Cir. Sept. 28, 2021). Just as “a survey to test likelihood of confusion” in a trademark case “must attempt to replicate the thought processes of consumers encountering the disputed mark ... as they would in the marketplace,” a survey to test whether consumers were deceived by ads or a website must make some effort to replicate real-world market conditions. *Hi-Tech Pharms. Inc. v. Dynamic Sports Nutrition, LLC*, 2021 WL 2185699, at *18 (N.D. Ga. May 28, 2021). Nor did Professor Novemsky assess whether the respondents even understood their *own* tax situation well enough (from memory) to determine how it measured up to the Free Edition eligibility criteria—a predicate for determining whether the consumers were even confused. *See* RX1392 at 98:15-99:13. In fact, he did not take any steps to verify whether these consumers had even “gathered the information necessary to file a tax return,” let alone confirm that consumers understood that information correctly. *Id.* at 99:7-13. Yet, he bases his entire survey on consumers’ recollection of their tax situations—information Professor Novemsky assumes they have at hand for his survey, but not when viewing any of the challenged ads.

Complaint Counsel attempt to excuse Professor Novemsky’s failure to show respondents any ads by now arguing (Pretrial Br. 20) that he was trying to measure “the cumulative effect of Intuit’s marketing campaign,” and not the effect of any particular ad. This ever-shifting rationale from Complaint Counsel is implausible on its face, but also does not address the underlying issue. The problem is not that Professor Novemsky failed to show any particular ad; the problem is that he did not show *any Intuit ads at all*. Because he showed no ads, Professor Novemsky conducted only a “memory test,” of whether the individuals surveyed (none of whom had recently used TurboTax) thought they might be able to file for free, which other courts have recognized is “useless.” *Instant Media, Inc. v. Microsoft Corp.*, 2007 WL 2318948, at *15 (N.D.

Cal. Aug. 13, 2007); *see also Starter Corp. v. Converse, Inc.*, 170 F.3d 286, 297 (2d Cir. 1999) (affirming the exclusion of a survey that “was little more than a memory test”).

Professor Novemsky’s failure to show survey participants any ads contributes to the survey’s foundational methodological flaw: the failure to employ a test-and-control design. As recognized in a widely used treatise, a survey that aspires “to determine the source” of “attitudes or beliefs or behaviors” (as did Professor Novemsky’s survey) is necessarily trying to “test a causal proposition” and thus must include an appropriate test and control group. RX709 at 397. Professor Novemsky did not do so—flouting the principles that he himself has recognized in past testimony. In a 2016 false-advertising trial, Professor Novemsky testified that because an opposing expert’s survey “did not contain a control,” it was not “a test of what the ad caused consumers to understand or not understand.” RX1349 at 1840:4-20. He further explained that:

[A] cornerstone of experimental design is that if you’re going to draw any causal inference of something like an ad caused some effect like a consumer understanding of some kind, you have to have an experimental design that includes a control and a test group. *Any other design makes causal inference ... impossible.*

Id. at 1841:2-12 (emphasis added). Professor Novemsky thus makes clear that Professor Novemsky’s survey in this case should be given no weight.

During his deposition, Professor Novemsky argued that his survey establishes causality because a researcher can “identify what are the other possible causes [of an effect] and see if those [causes] can be ruled in or out”—and if those alternative causes “get ruled out, then the study stands as scientific evidence for the relationship” the researcher has hypothesized and is trying to test. RX1392 at 89:5-20. But he then promptly admitted that he did not undertake any experimental studies “to eliminate other possibilities.” *Id.* at 90:22-91:4. Again, Professor Novemsky himself makes clear that Professor Novemsky’s survey should be given no weight.

Complaint Counsel’s justifications for Professor Novemsky failing to conduct a proper test-and-control survey have shifted over time. Complaint Counsel once claimed that Professor Novemsky “had to contend with extensive preexisting consumer impressions about whether or not TurboTax was free,” and that those “preexisting impressions did not allow Prof. Novemsky to perform a traditional control ... test.” Pl.’s Reply ISO Emergency Mot. for TRO & PI 2, *FTC v. Intuit Inc.*, No. 22-cv-01973-CRB (N.D. Cal. Apr. 8, 2022), Dkt. 48. That argument, if credited, is strong evidence there was no deception. Thus, the claim now is that finding an appropriate control group would have been “unlikely.” Pretrial Br. 20 (citing GX303 ¶¶30, 32-33). That does not excuse junk science. And as demonstrated by the Kirk Fair and Hauser surveys discussed below, *see infra* pp.76-77, it was assuredly possible to “accurately measure the cumulative effect of Intuit’s marketing campaign” (Pretrial Br. 20) using a properly constructed survey. Professor Novemsky simply failed to do so. No amount of excuse-making can change that. For the reasons given, the one he did create is “fatally flawed” and warrants no weight. *Millennium Labs., Inc. v. Ameritox, Ltd.*, 924 F. Supp. 2d 594, 601 (D. Md. 2013).

The defects discussed above do not stop Professor Novemsky from claiming to have identified the “most likely source of [the] consumer misimpressions.” GX303 ¶95. He reports that 190 of his 607 respondents incorrectly thought they could file for free with TurboTax and named either the TurboTax website or a TurboTax ad as having “played a role” in them forming that belief. *See id.* ¶79 & fig. 2. That overstates the actual results by counting closed-ended (multiple-choice) responses that are inconsistent with open-ended (fill-in narrative) responses. Employing blind coders, Professor Hauser identified a significant fraction of Professor Novemsky’s respondents who “contradicted themselves between open-ended and closed-ended responses, ... contradicted themselves [across] open-ended responses, [or] answered conclusively in a closed-ended response but expressed uncertainty in their open-ended response.”

RX1017 (Hauser Rep.) ¶54 tbl. 1 n.1. And if one also takes into account that many of Professor Novemsky's purportedly deceived respondents named multiple sources of their misimpressions, the number who were mistaken about their Free Edition eligibility, gave coherent survey responses, and named *only* TurboTax advertisements and/or the TurboTax website as the source of that belief drops to 34, or just 5.6% of the total pool of 607 respondents. *See id.* ¶69 & tbl. 2. Even if this had been a proper test-and-control study, that percentage is far below the level of consumer confusion that could provide evidence of deception. *See Telebrands*, 140 F.T.C. at 446-448; *see also Sara Lee Corp. v. Kayser-Roth Corp.*, 81 F.3d 455, 467 n.15 (4th Cir. 1996) (“[S]urvey evidence clearly favors the defendant when it demonstrates a level of confusion much below ten percent.”).

Still other flaws infect Professor Novemsky's survey. For instance, he excluded anyone who qualified to use Free Edition in Tax Year 2021 (approximately 59 million people, or 40% of taxpayers). *See* GX303 (Novemsky Rep.) ¶¶24-26. He also excluded those who said they had filed their Tax Year 2021 tax return before the survey was run (approximately 107 million people, or 60% of taxpayers). RX1392 (Novemsky Dep. Tr.) at 92:12-93:10. And he permitted more than 21% of those who completed his survey (164 respondents) to opt out and delete their responses *after* they were told the survey's sponsor, target, and purpose (i.e., litigation against Intuit). These self-selected opt-outs likely supported TurboTax, since they elected not to have their survey responses used in litigation against Intuit. But Professor Novemsky deleted their survey responses, making it impossible to know. *See id.* at 117:8-118:17. This lax approach to handling opt-outs undermines “any possible inference that the survey responses were objective.” *In re Autozone, Inc.*, 2016 WL 4208200, at *18 (N.D. Cal. Aug. 10, 2016), *aff'd*, 789 F. App'x 9 (9th Cir. 2019).

After his exclusions and opt-outs, Professor Novemsky was left with just 607 respondents. See GX303 ¶¶65 & App'x I. That was less than 5% of the 12,249 individuals who began the survey, *see id.*, a response rate courts have found too low “to generalize, or extrapolate the results of the survey to the wider population from which the sampled group was drawn.” *Autozone*, 2016 WL 4208200, at *17 (finding response rate of 3.43% to be “woefully low” and inadequate); *see also United States v. Dentsply Int’l, Inc.*, 277 F. Supp. 2d 387, 437 (D. Del. 2003) (dismissing a survey with a response rate of approximately 39% for “not meet[ing] the necessary research standards” due to the low response rate), *rev’d on other grounds*, 399 F.3d 181 (3d Cir. 2005); *Univ. of Kan. v. Sinks*, 2008 WL 755065, at *4 (D. Kan. Mar. 19, 2008) (noting that a 2.16% response rate is “by any standard ... quite low” and that it was “extremely likely that [such a low response rate] exerted a bias on the results” (citation omitted)).

In addition to unjustifiably *excluding* large swaths of people, Professor Novemsky improperly *included* individuals who likely had preexisting biases. He did not try—much less take the required “[s]pecial precautions,” RX709 at 382—to exclude participants who (1) were parties to the arbitrations filed in a coordinated mass-arbitration attack against Intuit, RX1392 (Novemsky Dep. Tr.) at 134:13-138:6, 140:17-141:1, (2) were among the hundreds of thousands of consumers solicited on social media by the mass-arbitration firms, *id.* at 138:10-139:12, or (3) had heard about the allegations the survey tested (including from the investigations and lawsuits that have received widespread media coverage), *id.* at 118:18-122:17, 125:2-126:12, 132:9-134:12, 141:2-5.

Finally, throughout the survey, it was clear to respondents that the survey concerned TurboTax. RX1392 (Novemsky Dep. Tr.) at 184:13-185:10, 289:6-13. As the Commission itself has recognized, such “complete[] transparen[cy] about the nature or purpose of a survey” may “create bias in ... consumers’ decision to participate in the survey or potentially result in

biased responses”—a flaw that “would affect the accuracy and validity of the information collected and *effectively nullify the survey.*” RX89 at 8 (emphasis added). In other cases, in fact, the Commission has repeatedly argued to federal courts that revealing a survey’s sponsor and purpose is an error that, at minimum, warrants giving that survey less weight. FTC’s Mot. To Exclude Expert Test. 7, *FTC v. LendingClub Corp.*, No. 3:18-cv-02454 (N.D. Cal. Feb. 27, 2020), Dkt. 155; FTC’s Reply ISO Mot. for Summ. J. 8, *FTC v. Kutzner*, No. 8:16-cv-00999 (C.D. Cal. Aug. 14, 2017), Dkt. 315; *see also Autozone*, 2016 WL 4208200 at *8 (excluding a survey because its purpose “was no mystery,” creating “a problem of self-interest bias”).

d. *Competent Survey Evidence Demonstrates That Consumers Were Not Deceived*

As explained, the TY20 Test demonstrates that consumers understood Free Edition’s qualifications. *See supra* pp.27-28. Indeed, [REDACTED]
[REDACTED]
[REDACTED] RX379 at 28. That is *lower* than the overall population that can in fact file for free using TurboTax, RX95 at 2, suggesting that consumers have a fairly accurate gauge into whether they personally are qualified for a free offer. Likewise, [REDACTED]
[REDACTED]
[REDACTED] RX379 at 28. That likely reasonably approximates the TY20 Test sample’s actual qualifications in the aggregate, [REDACTED] *id.* at 35, an age range in which tax filers are more likely to have simple returns and to file those returns online, *see* GX160 (Rubin Dep. Tr.) 96:13-17. Intuit’s Tax Year 2020 NPS study had similar results: [REDACTED]
[REDACTED]
[REDACTED] *See* RX592 at INTUIT-FTC-PART3-000602703. [REDACTED]

[REDACTED]

[REDACTED] *Id.* at INTUIT-FTC-PART3-000602669, -000602703.

In arguing that the TY20 Test is evidence of deception, Complaint Counsel focuses on a line in the test’s slide deck stating that [REDACTED]

[REDACTED]

[REDACTED] RX379 at 8 (emphasis added), *quoted in* Pretrial Br. 23. But “enticing” does not mean “deceptive.” It is unremarkable that people who were able to use the free product found it enticing—that is the whole point of advertising. Complaint Counsel also ignore that the slide deck states that [REDACTED]

[REDACTED] *id.* at 9. And they ignore that [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

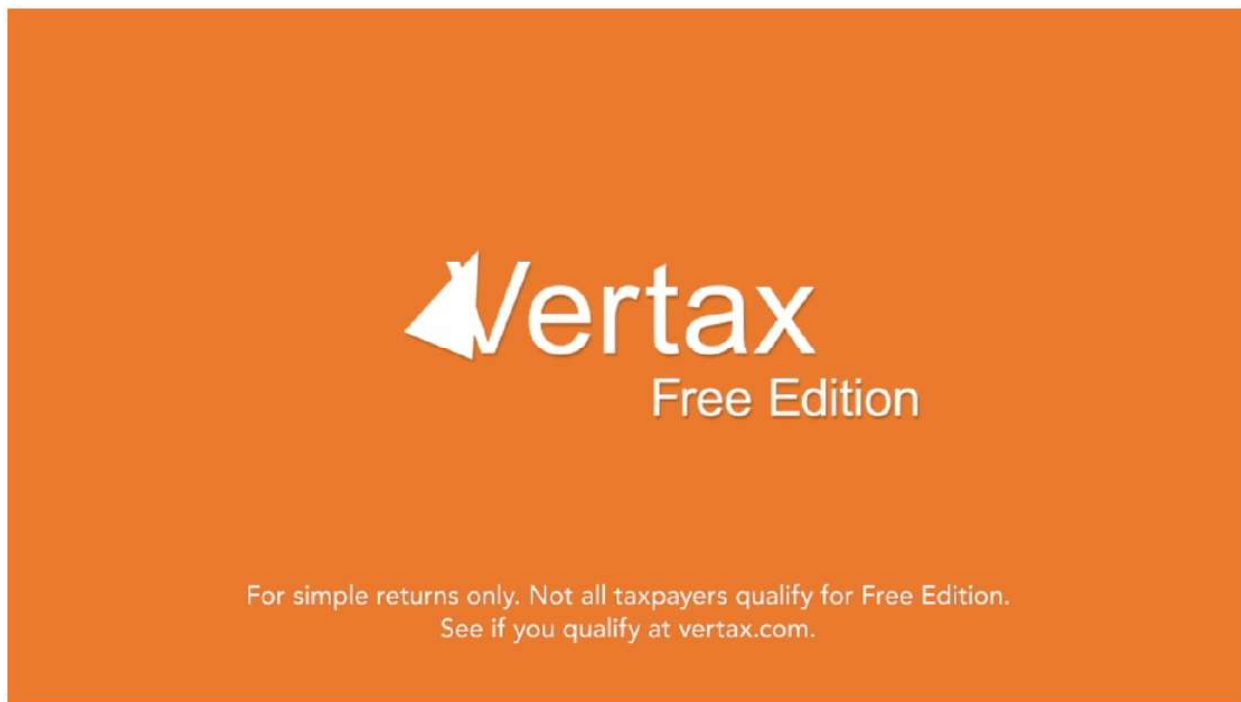
[REDACTED] *id.* at 27. All of that is true, and none of those messages indicates that respondents were deceived.

Notably, the TY2020 Copy Test is not the only survey evidence suggesting that the proportion of consumers who believe they can file for free is largely in line with the share of consumers who actually can do so. In Tax Year 2018, a study Intuit undertook regarding “Brand Sentiment Metrics” that indicated that just 22% of respondents were “confident” that Free Edition was actually free. RX595 at 17. This is an even lower share of respondents than the TY2020 study, which itself undershot the share of the population that was actually qualified to file for free.

Complaint Counsel claim (Pretrial Br. 34 n.44) that 2019 consumer-insight research conducted by Intuit regarding “Free Perception,” RX597, demonstrates that a significant minority of taxpayers were misled about their ability to file for free with TurboTax. But that study asked whether consumers surveyed *believed* that TurboTax Free Edition was truly free. The result—49%, *see id.* at INTUIT-FTC-PART3-000601665—is comparable to the proportion of TurboTax customers who *do* file for free using Free Edition. *See supra* p.72. And of course, Free Edition is truly free, so even if 100% respondents believed it to be true, it would not support deception. This document actually illustrates the absence of deception and the challenge in marketing a free tax preparation product. Even though there are no fees and no charges, a majority of consumers still do not believe it is free.

Complaint Counsel’s deception arguments are also refuted by Dr. Hauser’s Disclosure Efficacy Survey, *supra* p.54. If Complaint Counsel were correct that Intuit’s advertisements and website failed to adequately disclose Free Edition’s qualifications, “one would expect that respondents in the [test group], who were exposed to expanded disclosures about the limitations to filing for free, would be substantially less likely than respondents in the [control group] to consider starting their taxes with Vertax” (again, the fictional company that served as a stand-in for Intuit). RX1017 (Hauser Rep.) ¶91. But that “hypothesis is rejected scientifically by the results” of the survey. *Id.* In fact, members of the test group indicated that they would start with Vertax Free Edition *more* frequently (to a statistically significant degree) than members of the control group. *Id.* ¶95. These results are consistent with marketing-theory literature, which suggests that “the emphasis in the Revised Disclosures stimuli on the product limitations ... might make the offer more plausible and realistic” to all consumers, even those who do not qualify. *Id.* ¶97.

Complaint Counsel now suggest (Pretrial Br. 19 n.21) that the test-group stimuli from the Disclosure Efficacy Survey are themselves deceptive. But those stimuli were modeled off revisions to the ads that Complaint Counsel themselves previously advocated. *See* RX1017 (Hauser Rep.) ¶¶88-90 (quoting Compl. ¶¶29, 43). For example, the test-group video advertisement stimulus, included, in enlarged and brightened font, a text disclosure stating, “For simple returns only. Not all taxpayers qualify for Free Edition. See if you qualify at vertax.com.” RX1549. That qualifying language appeared on screen for 8 seconds in a 30-second ad, and was accompanied by an 8-second-long voiceover stating “Vertax Free Edition is for simple returns only. Not all taxpayers qualify to file for free. See if you qualify at vertax.com.” *Id.* It defies credulity for Complaint Counsel to suggest that this prominent qualifying language does not clearly signal to consumers that there are qualifications.



RX1017 (Hauser Rep.) App’x C-1-6 (Revised Disclosures Group Video Advertisement Screenshot).

A survey conducted by Rebecca Kirk Fair further demonstrates that consumers who switch to a TurboTax paid product do so for reasons other than supposedly deceptive advertising. Ms. Kirk Fair, a survey expert that the FTC has previously retained, conducted a test-and control survey to determine whether and to what extent the presence of TurboTax's free advertising and the use of upgrade screens on the TurboTax website affect consumers' product selection. RX1016 (Kirk Fair Rep.) ¶¶7, 18-19. The survey presented respondents with a Free Edition advertisement, instructed them to start completing tax returns in Free Edition, and then showed them upgrade screens with varying amounts of information. *Id.* ¶20. Respondents were subsequently asked open- and close-ended questions regarding the different tax-preparation solutions they would consider and were most likely to select. *Id.* ¶21.

The responses show that consumers' decisions to upgrade were not affected by the information or lack thereof on the upgrade screen. RX1016 (Kirk Fair Rep.) at fig. 1. If it were true that consumers start filing their taxes with TurboTax because they are deceived into believing they can file for free, one "would expect to see a substantial, statistically significant reduction in respondents' selection of a TurboTax paid product after learning of [an] additional free option," such as the IRS Free File program (as was done in the survey). *Id.* ¶28. One "would also expect to see this reduction in selection of TurboTax Paid products if consumers choose to upgrade because they [felt] locked into the TurboTax platform." *Id.* But Ms. Kirk Fair's survey shows no such reduction. *Id.* ¶¶31-37.

Respondents' answers, moreover, refute Complaint Counsel's theory that any deceptive advertising left consumers feeling "locked into" buying a paid tax-preparation product. For example, many respondents explained that upon seeing an upgrade screen, they would "search the internet and compare the TurboTax pay for edition with other tax platforms with comparable features," "[l]ook into other options," or file taxes with another tax-preparation service. RX1016

(Kirk Fair Rep.) ¶34. And respondents who chose to upgrade did so for reasons other than allegedly deceptive “free advertising,” *id.* ¶¶27-28, including that they had used TurboTax for “many years” and felt the upgrade was “worth it,” *id.* ¶36.

C. Intuit’s Representations Were Not Material

Complaint Counsel’s claim would fail even if they could prove deception, because none of the allegedly deceptive statements in any of the ads was material, i.e., that it was likely to affect a reasonable consumer’s purchasing decision, *Novartis Corp.*, 127 F.T.C. 580, 667 (1999).

To use TurboTax, a consumer must go to the website, meaning any purchasing decision she makes is necessarily informed by what appears there. The majority of individuals who visit the website were specifically looking for TurboTax. *See* RX1018 (Golder Rep.) ¶157. And once consumers get to the website, every reference to a free offer is accompanied by immediate qualifying language and color-contrasted hyperlinks that lead to even more information. *See supra* pp.10-18.

Complaint Counsel’s own expert (and Complaint Counsel itself) recognized that consumers are presented with detailed information concerning whether they qualify for the free offer within minutes of visiting the website. RX1396 (Yoeli Dep. Tr.) at 29:19-35:3; *accord* Compl. Counsel’s Resps. & Objs. To Intuit’s SMF (Sept. 8, 2022) ¶64 (admitting that “consumers with income-related disqualifiers, for instance, are likely informed that they do not qualify for Free Edition as quickly as 10 minutes into the process of completing their tax returns”). Complaint Counsel cannot and do not credibly claim that spending mere minutes on the TurboTax website caused consumers to purchase TurboTax when they otherwise would not have, or even that any of the challenged ads were material to any consumer’s decision to take the brief time required to go to the TurboTax in the first place. Indeed, the fact that nearly [REDACTED] of the visitors to the TurboTax website in Tax Year 2021 who accessed a TurboTax account

ultimately did not file their taxes with any TurboTax product, RX1027 (Deal Rep.) ¶98, underscores that the decision to use TurboTax remains up for grabs even once someone decides to visit the website. Accordingly, there is no evidence that anything in the TurboTax ads were material to any purchase decision.

II. THE PROPOSED CEASE-AND-DESIST ORDER IS UNWARRANTED

The Commission’s remedial power in a Part 3 proceeding like this one is limited to issuing “an order requiring [the respondent] to cease and desist from using” any “act or practice” found to be deceptive. 15 U.S.C. §45(b). This relief is not designed “to fasten liability on respondents for past conduct.” *FTC v. Cement Inst.*, 333 U.S. 683, 706 (1948). To obtain such an order based on past misconduct, Complaint Counsel must establish that “there exists some *cognizable danger* of recurrent violation, something more than the mere possibility which serves to keep the case alive.” *United States v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953) (emphasis added); *Benco Dental Supply Co.*, 2019 WL 5419393, at *75 (F.T.C. Oct. 15, 2019). Any remedy, moreover, must have a “reasonable relation to the unlawful practices found.” *Standard Oil Co. of Cal. v. FTC*, 577 F.2d 653, 662 (9th Cir. 1978) (quoting *F.T.C. v. Colgate-Palmolive*, 380 U.S. 374, 394-395 (1965); accord *North Tex. Specialty Physicians v. FTC*, 528 F.3d 346, 371 (5th Cir. 2008). “The ‘factors relevant to ... whether to issue an order when a respondent professes to have ceased the complained-of activities [include]: the bona fides of the respondent’s expressed intent to comply with the law in the future; the effectiveness of the claimed discontinuance; and the character of the past violations.’” *Benco Dental*, 2019 WL 5419393, at *75 (quotation marks omitted). Applying these factors here, a cease-and-desist order would not be warranted if the Court found any liability because Intuit’s prior practices do not create a risk of future unlawful conduct. Indeed, any future potentially unlawful conduct is already enjoined.

A. Intuit’s Discontinued Historical Practices Do Not Create A Cognizable Danger Of Future Violations

Even if Intuit’s past advertising were found to be deceptive, that finding would not be evidence of potential future misconduct, because the vast majority of the challenged ads do not run anymore; Intuit has repeatedly revised its ads over the years to make them even more clear. For example, in Tax Year 2019, Intuit revised its television ad, more prominently conveying Free Edition’s qualifications and changing the primary text on the title card at the end of the ad to refer to “TurboTax Free Edition.” *See, e.g.*, RX1114-1115; RX1120; RX1122. These “meaningful steps toward improving customer satisfaction” undermine Complaint Counsel’s efforts (Pretrial Br. 2-3) to rely on “substantially outdated” advertising, *FTC v. Merchandise Servs. Direct, LLC*, 2013 WL 4094394, at *3 (E.D. Wash. Aug. 13, 2013), to argue that future violations are “simply a foregone conclusion based upon the number of prior alleged violations,” *id.*

Nor can Complaint Counsel look to the handful of Intuit’s current advertisements to support relief. Not only are those ads unquestionably not deceptive, *supra* pp.32-33, they are not properly at issue in this proceeding. “Commission authorization” is required “before its staff attorneys file an action.” Order, *FTC v. Libbey Inc.*, No. 1:02-cv-00060-RBW (D.D.C. Apr. 3, 2002), Dkt. 76; *see* 16 C.F.R. §3.11(a) (“an adjudicative proceeding is commenced when an affirmative vote is taken by the Commission to issue a complaint.”). The Commission has never voted to issue a complaint regarding Intuit’s Tax Year 2022 (i.e., calendar year 2023) advertising.

Complaint Counsel go astray in asserting (Pretrial Br. 48) that Intuit’s present conduct does not matter because it changed its advertising practices only “under substantial scrutiny” from the Commission and others. In reality, Intuit’s advertising practices evolved both before and after the Commission and others launched their investigations (in 2019). Consider, for

example, the changes Intuit has made over time to its television advertising for TurboTax. Prior to Tax Year 2017, Intuit's ads for TurboTax Federal Free Edition stated that the product was "for simple U.S. returns only." *See, e.g.*, RX17; RX18. For Tax Years 2017 and 2018, Intuit's ads for free TurboTax products retained that "simple U.S. returns only" language and added an encouragement for consumers to "[s]ee details at turbotax.com." *See, e.g.*, RX29; RX30. For Tax Years 2019 and 2020, each ad for Free Edition included a disclosure stating that "TurboTax Free Edition is for simple U.S. returns only" and asking consumers to "[s]ee if [they] qualify at turbotax.com"; in addition to those language updates, Intuit changed the disclosures' color and font to make the language more prominent and easier to read. *See, e.g.*, RX15; RX16. Given that Intuit "is not attempting and does not intend" to violate the law, an injunction is unwarranted. *New Standard Pub. Co. v. FTC*, 194 F.2d 181, 183 (4th Cir. 1952). Intuit's prompt decision to take down the "Free, Free, Free" ads that most concerned the Commission, after Intuit's meeting with Chair Khan, is further evidence of the sincerity of Intuit's efforts and its commitment to being clear and honest in its advertising to consumers. *See Mot. to Withdraw Matter from Adjudication* 9, 123 (May 4, 2022). As explained at the time, the meeting with Chair Khan was the first time the Commission had articulated specific concerns with those advertisements, *id.* at 123, and in response Intuit acted immediately—as a continuation of its earlier efforts to improve its ads. Intuit's Consent Order with state attorneys general, *see supra* pp.30-32, is also strong evidence of Intuit's commitment to improving its ads, and it refutes Complaint Counsel's contention (Pretrial Br. 48) that "Intuit has no contrition whatsoever." These steps demonstrate Intuit's resolute "intent to comply with the law in the future." *Benco Dental* 2019 WL 5419393, at *75.

Complaint Counsel are also wrong (Pretrial Br. 48) that Intuit intentionally sought to deceive consumers. In fact, Complaint Counsel have conceded that there is *no* such evidence.

RX161 (Maxson Dep. Tr.) at 173:4-13, 174:8-17. This is for good reason: As explained, *see supra* pp.28-29, deception has never been in Intuit’s business interests. Intuit’s contemporaneous business records confirm that the company was committed to being clear with consumers and endeavored to have them start in the TurboTax product that best fit their needs. *See supra* pp.15-16. Put simply, Complaint Counsel ask the Court (Pretrial Br. 48) to consider “the circumstances surrounding” the purportedly deceptive advertising—and those circumstances reflect that Intuit’s past practices do not indicate likely future violations.

B. Future Deceptive Conduct Is Already Enjoined

A cease-and-desist order would be improper for the independent reason that, as explained, any unlawful conduct Intuit might plausibly undertake in the future regarding advertisements for Free Edition (or other free offers) has already been enjoined by the Consent Order. *See* RX399; *supra* pp.30-32. Because the order is binding on Intuit and enforceable by the chief law-enforcement officer of every State as well as by a California court (among others), *see supra* p.30, it provides powerful “assurances of future compliance” with the FTC Act and eradicates any “cognizable danger” of future conduct by Intuit inconsistent with the Consent Order’s terms, *TRW, Inc. v. FTC*, 647 F.2d 942, 954 (9th Cir. 1981). And any question as to whether Intuit intends to comply with the Consent Order should be assuaged by Intuit’s current advertisements, which contain numerous disclosures and about which no complaints have been raised by any of the States enforcing the Consent Order. *Supra* pp.32-33.

The Consent Order also forecloses Complaint Counsel from obtaining relief because, with the Consent Order in place, the record reflects “no reasonable expectation” that Intuit’s challenged conduct “could recur,” making this case moot. *S.C. State Bd. of Dentistry*, 138 F.T.C. 229, 262 (2004) (citing *W.T. Grant*, 345 U.S. at 632). As explained, the Consent Order—a binding agreement with the chief law-enforcement officers of all 50 States and the District of

Columbia that is enforceable by a California court—already provides all relief that has a “reasonable relation to the unlawful practices” alleged in the complaint, *Standard Oil*, 577 F.2d at 662.

Thus, not only is there no present violation of the FTC Act, or a “cognizable danger” of future violations, *TRW*, 647 F.3d at 954; there is also “a covenant promising” no violations of the type alleged in the complaint, *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 97 (2013). The Consent Order’s terms make it more than merely unlikely that future Section 5 violations will occur—“there is no reasonable expectation” of any future violations of the sort challenged in the complaint, *TRW*, 647 F.3d at 953 (quoting *W.T. Grant*, 345 U.S. at 633). Indeed, a court recently found that a plaintiff’s claims were moot because any relief would be “redundant” to an FTC consent decree. *iMortgage Servs., LLC v. Louisiana Real Estate Appraisers Bd.*, 2023 WL 2254528, at *2-5 (M.D. La. Feb. 27, 2023). There, the Court held that the threat that the FTC would enforce that judicially enforceable agreement “preclude[d] a reasonable expectation that the wrong will be repeated.” *Id.* at *4. “[S]peculative” misconduct that the plaintiff asserted might occur after the consent decree’s expiration did not alter that conclusion. *See id.* Here, too, because the states can enforce the judicially binding Consent Order, any relief is redundant and Complaint Counsel’s claim is moot.

Complaint Counsel respond by citing (Pretrial Br. 47-48) *SEC v. Murphy*, 626 F.2d 633 (9th Cir. 1980). But that case was quite different: The respondent offered only his “assurances against future violations,” plus he already had a “new venture ... provid[ing] ample opportunity for continued misconduct.” *Id.* at 655-656. Here, Intuit offers (in addition to its assurances) both facts about why the nature of its industry gives Intuit a strong incentive to avoid deception, *see supra* pp.28-29, and a *binding court order* that bars Intuit from doing what Complaint Counsel allege was deceptive in prior years.

Complaint Counsel also offer (Pretrial Br. 46) various additional reasons why the Consent Order does not “obviate[] the need for further Commission action.” None holds water.

First, Complaint Counsel say (Pretrial Br. 46) that the Consent Order “allows for ‘Space-Constrained Advertisements’ in which Intuit need only disclose that ‘eligibility requirements apply’ and provide a hyperlink to more fulsome disclosures.” These requirements, according to Complaint Counsel (*id.*), contradict the Commission’s “.com Disclosures” guidance. But *guidance* is just that; it is not the law. And regardless, the Consent Order comports with the guidance. The guidance acknowledges that “[h]yperlinks allow additional information to be placed on a webpage entirely separate from the relevant claim” and “can provide a useful means to access disclosures that are not integral to the triggering claim.” GX316 at 10. Consistent with the guidance, the Consent Order requires “Clear and Conspicuous” hyperlinks—or that *the entire ad* be a hyperlink—taking consumers directly to a landing page containing “Clear and Conspicuous” full disclosures of Free Edition’s eligibility criteria. RX399 at INTUIT-FTC-PART3-000614010-000614011; *see also* GX316 at 10 (explaining that “details ... too complex to describe adjacent to the price claim ... may be provided by using a hyperlink”).

Complaint Counsel argue, however, that a cease-and-desist order could specify “that information *integral to the claim* cannot be hidden behind a hyperlink.” Pretrial Br. 47 (emphasis added). But the Consent Order does require Intuit to disclose clearly and conspicuously “that eligibility requirements apply,” RX399 at INTUIT-FTC-PART3-000614010-000614011, which is the information integral to Intuit’s free product or offers. To the extent Complaint Counsel are suggesting that every detail of a free offer must be disclosed in each space-constrained ad, that is not the law, not feasible, and would be harmful to consumers, *see supra* pp.48-49.

Second, Complaint Counsel assert (Pretrial Br. 46-47) that the Consent Order permits “visual-only disclosures in ‘Space-Constrained Video Advertisements,’ allowing the audio portion to disclose only ‘that not all taxpayers qualify.’” But requiring a more comprehensive voiceover disclosure—a purported requirement that Complaint Counsel appear to draw from a 50-year-old Commission policy statement lacking the force of law, *see* Pretrial Br. 39 (citing Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosure in Television Advertising (Oct. 21, 1970), § I.A))—is not necessary to avoid deception. In the decades since it issued that policy statement, the Commission has recognized both that the written or verbal disclosures needed “[d]epend[] on the circumstances,” and that even “[l]ess elaborate disclosures” than those in the statement “may suffice.” *FTC Policy Statement on Deception*, 103 F.T.C. at 180-181. Intuit’s post-Consent-Order disclosures in space-constrained ads are easily “sufficiently prominent” to ensure that the ads leave “an accurate impression,” *Removatron*, 884 F.2d at 1497.

Third, Complaint Counsel argue (Pretrial Br. 47) that space-constrained video ads shorter than eight seconds are deceptive if those ads do not include verbal disclosures. Again, Complaint Counsel identify no allegedly deceptive ads in this category. And in TikTok ads from Tax Year 2022—presumably the target of Complaint Counsel’s ire—Free Edition’s qualifications are clearly communicated to consumers. RX1483. Indeed, during the entirety of a five-second ad, text on the screen states “Simple returns only. See if you qualify at turbotax.com.” *Id.* Moreover, those ads do not make a verbal “free” claim, *id.*, meaning that Complaint Counsel’s supposed “black letter law” (Pretrial Br. 46-47) that disclosures must appear in the same medium as the free claim does not apply. *See also, e.g.*, GX546 (TY 2020 TikTok ad).

Requiring more detailed audio disclosures in video ads shorter than 8 seconds, moreover, would effectively preclude Intuit from advertising on TikTok and similar short-form social-media platforms because there is not enough time to do so and say anything else. Such a requirement would thus harm consumers by preventing them from using those platforms to learn about a product they might well be able to use to file their taxes for free.

Fourth, Complaint Counsel contend (Pretrial Br. 47) that the Consent Order’s monetary relief is available only to certain consumers “harmed from 2016 to 2018,” whereas a Section 5 cease-and-desist order would empower the Commission to seek additional monetary relief in a Section 19 proceeding. This argument contravenes the purpose of this proceeding, is improper, and cannot be considered. As noted, a cease-and-desist order cannot serve “to fasten liability on respondents for past conduct.” *Cement Inst.*, 333 U.S. at 706; *supra* p.78. Complaint Counsel disregard that principle by premising their claim, at least partly, on their desire to obtain monetary relief for years-old conduct. In any event, Complaint Counsel’s desire for retrospective monetary relief does not justify a prospective injunction. Complaint Counsel have not pleaded the requisite “dishonest or fraudulent” conduct. 15 U.S.C. §57b(a)(2). And the record refutes any suggestion that Intuit intended to deceive consumers. *See supra* pp.51-53.

Fifth, Complaint Counsel argue (Pretrial Br. 46) that a cease-and-desist order is necessary to “cover Intuit’s ... marketing beyond TurboTax.” But Complaint Counsel have made no allegations concerning any other product, and as noted, injunctive relief cannot extend beyond what is reasonably related to the practices alleged in the complaint. *See American Home Prods., Corp. v. FTC*, 695 F.2d 681, 710-711 (3d Cir. 1982). That is particularly true given that the only evidence Complaint Counsel offer on this point—so thin it’s relegated to a footnote (Pretrial Br. 46 n.58)—is that Intuit once “*considered* applying a ... ‘free’ marketing campaign to its

QuickBooks product” (emphasis added). No such campaign exists. Such “consider[ation]” cannot possibly support any prospective relief.

Sixth, Complaint Counsel note (Pretrial Br. 47) that one sole provision of the Consent Order “sunsets after ten years.” The balance of the Order sunsets after 20, just like any order that would be entered in this case. Moreover, the Commission itself just agreed to a ten-year order in a case involving Mastercard. *Mastercard, Inc.*, 2022 WL 17975182, at *6 (F.T.C. Dec. 23, 2022). The possibility that, more than ten years from now, Intuit could engage in deceptive conduct manifestly provides no basis for the Court to enter a cease-and-desist order now. Again, if they wish to establish a “*cognizable danger*” of future violations of Section 5, *W. T. Grant*, 345 U.S. at 633 (emphasis added), Complaint Counsel “must go beyond ‘a speculative risk’”—which assuredly includes conjecture about how Intuit “might” act a *decade* (or more) from today, *Allen v. Williams*, 2022 WL 17551564, at *10 (D. Colo. Dec. 8, 2022) (quoting *Winzler v. Toyota Motor Sales U.S.A., Inc.*, 681 F.3d 1208, 1215 (10th Cir. 2012)).

C. Imposing Additional Restrictions Or Requirements On Intuit’s Advertising Would Harm Consumers

In an effort to show that prospective relief is warranted even after the Consent Order, Complaint Counsel stretch to identify additional disclosures Intuit could make. But the evidence indicates that those additional disclosures would *harm* consumers. *Supra* pp.48-49. As such, Intuit should not be enjoined to include those counterproductive disclosures.

III. THE STATUTE OF LIMITATIONS AND LACHES EACH BAR CONSIDERATION OF OUTDATED ADVERTISEMENTS

Section 5 of the FTC Act does not include an express statute of limitations. Complaint Counsel argue (Pretrial Br. 49) that because of this, “no statute of limitations” applies here. But the Supreme Court has explained that courts “do not ordinarily assume that” the absence of an explicit statutory limitations period means “Congress intended that there be no time limit on

actions at all.” *DelCostello v. International B’hd of Teamsters*, 462 U.S. 151, 158 (1983); *see also FTC v. Centro Nat’l Corp.*, 2014 WL 7525697, at *7-8 (S.D. Fla. Dec. 10, 2014) (noting that the FTC cites many cases that fail to consider *DelCostello*). Instead, courts typically “borrow” a limitation period from an analogous state law. *DelCostello*, 462 U.S. at 159. Alternatively, courts may apply a limitations period rooted in federal law. *See Reed v. United Transp. Union*, 488 U.S. 319, 324 (1989) (citing cases). Here, both state and federal law point to a three-year statute of limitations. *See* Cal. Civ. Code §1783; D.C. Code §28-3904; N.Y. C.P.L.R. §214(2); *see also* 15 U.S.C. §57b(d). And because Intuit entered into a tolling agreement with the Commission beginning January 5, 2022, there can be no liability based on ads predating January 5, 2019—three years before tolling.

Laches independently bars any attempt to punish Intuit for outdated ads of which the FTC has long been aware. To prevail on a laches defense, a defendant must show “‘an unreasonable delay by the plaintiff and prejudice to itself.’” *Danjaq LLC v. Sony Corp.*, 263 F.3d 942, 951 (9th Cir. 2001). Contrary to Complaint Counsel’s assertion, moreover (Pretrial Br. 49), laches is available against the federal government when delayed enforcement action would be substantially unfair to the defendant, *see United States v. Lindberg Corp.*, 882 F.2d 1158, 1164 (7th Cir. 1989), or when the government engages in “affirmative misconduct,” *United States v. Ruby Co.*, 588 F.2d 697, 705 n.10 (9th Cir. 1978). Laches can also be asserted against the FTC where it unreasonably delays bringing an enforcement action to the defendant’s detriment. *See FTC v. DirecTV, Inc.*, 2015 WL 9268119, at *3 (N.D. Cal. Dec. 21, 2015); *FTC v. Hang-Ups Art Enterprises, Inc.*, 1995 WL 914179, at *4 (C.D. Cal. Sept. 27, 1995). Here, the FTC allowed multiple tax seasons to pass before initiating an action even though—as the District Court observed at the preliminary injunction hearing—the conduct in question was “known to the FTC for a considerable period of time,” RX73 at 6:10-12. It is inequitable to penalize Intuit for

outdated ads when the FTC delayed suit for years. And it is telling that the FTC did nothing about years and years of ads, across three different administrations before filing this case (and losing in federal court).

IV. THIS PROCEEDING IS UNCONSTITUTIONAL

Separate from the merits, Complaint Counsel cannot prevail because this proceeding is unconstitutional in several ways. First, Intuit has been denied its due-process right to a fair proceeding before a neutral arbiter. Second, the FTC's internal administrative processes independently violate due process. Third, the non-delegation doctrine bars Intuit from being subjected to an administrative proceeding based on a black-box system in which the Commission has unchecked authority to allocate some cases to the FTC's administrative process and others to the protections of federal court. Fourth, separation-of-powers principles require FTC Commissioners and judges to be subject to direct presidential control, and prohibit combining the functions of all three branches of government in a single agency directly accountable to no one.

To the extent this Court cannot grant relief on any of these constitutional arguments, Intuit presents each to preserve them all for further review.

A. Intuit's Due-Process Rights Have Been Violated By The Reality Or Appearance Of Prejudgment

The Due Process Clause prohibits an agency from ““adjudg[ing] the facts as well as the law of a particular case in advance of hearing it.”” *Fast Food Workers Comm. v. NLRB*, 31 F.4th 807, 815 (D.C. Cir. 2022). To determine whether due process is violated, courts ask “whether a disinterested observer may conclude that the agency has in some measure” prejudged the case. *Id.* Here, certain Commissioners' comments and actions would lead a disinterested observer to conclude—accurately—that the “ultimate determination of the merits” improperly “move[d] in predestined grooves.” *Cinderella Career & Finishing Schs., Inc. v. FTC*, 425 F.2d 583, 589-590 (D.C. Cir. 1970).

Actions and statements from Chair Khan demonstrate that Intuit has not had a fair opportunity to present its side of the story. On March 29, 2022, while the Part 3 “wall” was up and the Commission was required to play the role of neutral adjudicator, Chair Khan tweeted about Intuit’s “deceptive TurboTax ‘free’ filing campaign” and the need for an “immediate halt to Intuit’s deceptive ads.” RX102; RX103. This is not the same as the issuance of a press release. Instead, by retweeting the content of the press release, the Chair amplified and indicated her support for the content of the press release itself. Simply put, it is impossible to imagine a federal judge retweeting a plaintiff’s press release announcing a case that she were going to be deciding. That would clearly violate the admonition that “judge[s] should not make public comment on the merits of a matter pending or impending in any court.” Code of Conduct for U.S. Judges Canon 3(A)(6).

Then, not one month later (with the Part 3 wall still in place), Chair Khan reinforced the perception of prejudgment by once again publicly suggesting, this time in a widely watched interview, that Intuit was a lawbreaker. RX103. Although Chair Khan described the purported conduct as “alleged,” a reasonable observer can see the bias inherent in holding up Intuit as her chosen exemplar of an unqualified lawbreaker whom the Commission needed to take prompt action against, especially in light of the Chair’s earlier tweet. Chair Khan’s public statements were made before Intuit had an opportunity to present its case, and at a time when FTC rules—and broader due process principles—required her to appear and remain neutral. Again, a federal judge hearing a case could not stand up and give a speech pointing to actions taken by a defendant in a case pending before that judge and point to that Defendant’s conduct as necessitating an enforcement action. The rules for Chair Khan in Part 3 should be—and are—no different.

Courts have invalidated FTC actions tainted by the participation of a Commissioner whose statements were far less problematic. In *American Cyanamid Co. v. FTC*, 363 F.2d 757 (6th Cir. 1966), for example, Chair Paul Rand Dixon participated in an antitrust matter even though, as counsel to a Senate subcommittee, he had previously investigated similar “facts and issues” in preparing a subcommittee report that criticized companies facing antitrust scrutiny, *id.* at 763, 767. The Sixth Circuit invalidated an FTC antitrust order in which Chair Dixon had participated, explaining that FTC proceedings “must be attended, not only with every element of fairness but with the very appearance of complete fairness,” and that “[w]herever there may be reasonable suspicion of unfairness, it is best to disqualify.” *Id.* at 767. The D.C. Circuit embraced this reasoning in *Cinderella* and invalidated a different FTC order. In that case, Chair Dixon made public statements appearing to condemn particular industries as engaging in deceptive practices while a matter concerning a member of that industry was pending before the FTC. 425 F.2d at 584-585. The FTC subsequently found that company liable. In vacating the FTC’s order, the court explained that Commissioners may not “make speeches which give the appearance that the case has been prejudged.” *Id.* at 590. Such conduct “ha[s] the effect of entrenching a Commissioner in a position which he had publicly stated, making it difficult, if not impossible, for him to reach a different conclusion in the event he deems it necessary to do so after consideration of the record.” *Id.* Permitting Chair Dixon’s participation, therefore, would give the impression that the “ultimate determination of the merits will move in predestined grooves.” *Id.*

Like Chair Dixon, Chair Khan made public statements asserting her view that Intuit engaged in conduct that violated the law. Chair Khan publicly embraced the conclusion that Intuit engaged in “deceptive” conduct with respect to its “free” advertising, going so far as to counterfactually endorse that the product was somehow not really free. A disinterested observer

reasonably would conclude that Chair Khan meant what she tweeted—that she already considered Intuit’s ads deceptive and would vote to halt those ads. And Chair Khan reinforced that perception when, weeks later at an academic conference, she referenced Intuit by name as an example of alleged law-breaking that the FTC should stop quickly.

B. The FTC’s Internal Administrative Process Violates The Due Process Clause

The FTC’s structure and procedures are also constitutionally infirm. Due process requires “a fair opportunity to rebut the Government’s factual assertions before a neutral decisionmaker.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004). And “an unconstitutional potential for bias”—i.e., a potential for a decision-making *not* to be neutral—inevitably exists “when the same person serves as both accuser and adjudicator in a case.” *Williams v. Pennsylvania*, 579 U.S. 1, 8 (2016). The FTC Act violates these principles by authorizing an administrative hearing in which the FTC simultaneously acts as prosecutor, judge, jury, and appellate court. Indeed, the FTC’s extraordinary win rate before itself provides strong evidence of a biased institutional process that is incompatible with basic tenets of due process. *See Hamdi*, 542 U.S. at 533.

In arguing to the contrary, Complaint Counsel rely on *Withrow v. Larkin*, 421 U.S. 35 (1975), in which the Supreme Court held that a federal agency does not violate due process by combining investigative and adjudicative functions “without more,” *id.* at 58. Even in that case the Supreme Court recognized that “special facts and circumstances present in the case” may demonstrate “that the risk of unfairness is intolerably high.” *Id.* The FTC’s concentration of governmental power, coupled with the copious evidence of case-specific prejudgment in this matter discussed above, makes plain that the risk of unfairness is “intolerably high.”

C. Congress Unconstitutionally Delegated Legislative Power To The FTC

The FTC Act empowers the Commission to enforce its provisions either through administrative proceedings or in federal court. *See* 15 U.S.C. §§45(b), 53(b). The power to assign disputes to agency adjudication is “peculiarly within the authority of the legislative department.” *Oceanic Steam Navigation Co v. Stranahan*, 214 U.S. 320, 339 (1909). But the FTC Act’s wholesale delegation of a core legislative power to an executive agency, without any criteria or intelligible principle to govern that agency action, is unconstitutional. *See Jarkesy v. SEC*, 34 F.4th 446, 461 (5th Cir. 2022) (citing *Crowell v. Benson*, 285 U.S. 22, 50 (1932)). By empowering the FTC to proceed either before a federal court or an administrative tribunal, Congress “effectively gave the [FTC] the power to decide which defendants should receive *certain legal processes*.” *Id.* at 462. Such a decision “is a power that Congress uniquely possesses” and cannot delegate. *Id.*

As with the Securities and Exchange Commission, “Congress has said nothing at all” regarding how the FTC should exercise its “exclusive authority and absolute discretion to decide whether to bring ... enforcement actions within the agency instead of in an Article III court,” *Jarkesy*, 34 F.4th at 462. Such a “total absence of guidance is impermissible under the Constitution.” *Id.*; *see also Gundy v. United States*, 139 S. Ct. 2116, 2123 (plurality); *Panama Refining Co. v. Ryan*, 293 U.S. 388, 430 (1935).

The history of this case underscores why the FTC’s unchecked discretion to determine the forum in which it will proceed—and, therefore, which legal processes will govern—is so problematic. Even before this proceeding began in earnest, Complaint Counsel, without success, sought relief in federal court. Now, having failed in a judicial forum, Complaint Counsel is wielding this core legislative authority to get a second bite at the apple in an administrative proceeding. By the looks of it, the principle guiding Complaint Counsel’s decision to proceed

here is simply that, having been rejected in the district court, this forum is perceived as friendlier. Such considerations should not play a role and under the Constitution cannot play a role.

D. The FTC's Structure Violates The Separation Of Powers

The FTC's structure contravenes separation-of-powers principles because the Commissioners and the FTC's administrative law judges are each too insulated from presidential removal. *See, e.g., Seila Law v. CFPB*, 140 S. Ct. 2183, 2191 (2020); *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S. 477, 484 (2010).

First, Article II of the Constitution vests “[t]he executive Power ... in a President,” who must “take Care that the Laws be faithfully executed.” Art. II, §1, cl. 1. That power includes the power to supervise and remove “those who wield executive power on his behalf.” *Seila Law*, 140 S. Ct. at 2191. FTC Commissioners, who exercise executive power, *Morrison v. Olson*, 487 U.S. 654, 690 n.28 (1988), are shielded from at-will Presidential removal, *see* 15 U.S.C. § 41. Although Complaint Counsel are not wrong (Pretrial Br. 51) that the Supreme Court upheld the FTC's removal structure in *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), Complaint Counsel ignore the Court's repeated undermining of that case. *Seila Law*, for example, “repudiated almost every aspect of *Humphrey's Executor*,” 140 S.Ct. at 2212 (Thomas, J., concurring in part and dissenting in part), by refusing to apply the decision to an agency with a slightly different structure to the 1935 FTC, *id.* at 2206. Intuit preserves the argument that *Humphrey's Executor's* reasoning has been eroded and it can no longer stand.

Second, the FTC's structure unconstitutionally insulates ALJ's from removal. The President may not “be restricted in his ability to remove a principal officer, who is in turn restricted in his ability to remove an inferior officer.” *Free Enter. Fund*, 561 U.S. at 484. That precisely describes the protections from removal afforded to FTC ALJs, who “are appointed under the authority and subject to the prior approval of the Office of Personnel Management,” 16

C.F.R. §0.14, yet are insulated from executive oversight, *see. See* 5 U.S.C. §7521(a) (“An action may be taken against an [ALJ] ... by the agency in which [he] is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.”); 5 U.S.C. § 1202(d) (providing that members of the Merit System Protection Board, in turn, are removable “by the President only for inefficiency, neglect of duty, or malfeasance in office”). Accordingly, like the officials in *Free Enterprise Fund*, FTC ALJs enjoy a double layer of protection from the President. As *Free Enterprise Fund* makes plain, that structure violates Article II.

Complaint Counsel’s assertion (Pretrial Br. 51-52) that any defect in removal power is harmless because the Commissioners have been properly appointed is wrong (and does not address the ALJ argument). Proper appointment does not salvage the actions of an officer with unconstitutional removal protection if that protection contributes to any harm inflicted. *See Collins v. Yellen*, 141 S.Ct. 1761, 1789 (2021). That is the case here. If the Commissioners were accountable to the President, the prospect that Intuit would be subjected to such a skewed proceeding would be significantly reduced.

CONCLUSION

Complaint Counsel have failed to meet their burden to prove deception and it is not a close call. The Court should find in Intuit’s favor and dismiss the Complaint.

March 17, 2023

Respectfully submitted,

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No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
1	GX 321	TY14	TV / Video	TurboTax Federal Free Edition; Absolute Zero TurboTax Federal Free Edition is for simple U.S. returns only. Offer may end without notice. See offer details at TurboTax.com.	N/A	No	N/A - Video
2	RX 200	TY14	TV / Video	TurboTax Federal Free Edition; Absolute Zero TurboTax Federal Free Edition is for simple U.S. returns only. Offer may end without notice. See offer details at TurboTax.com.	N/A	No	N/A - Video
3	GX 388	TY15	Email	Absolute Zero 1040EZ/A	N/A - Non-video	No	Hyperlink: Body of email itself
4	GX 323	TY15	TV / Video	TurboTax Federal Free Edition; TurboTax Absolute Zero TurboTax Federal Free Edition is for simple U.S. returns only. Offer may end without notice. See offer details at TurboTax.com.	If I were to tell you to go to turbotax.com, it would be because TurboTax AbsoluteZero lets you file your taxes for free.	No	N/A - Video
5	GX 389	TY16	Email	Absolute Zero 1040EZ/A	N/A - Non-video	No	Hyperlink: Body of email itself
6	RX 024	TY16	TurboTax Website	Absolute Zero 1040EZ/A	N/A - Non-video	No	"No catch, here's why"
7	GX 374	TY16	Email	Absolute Zero Forms 1040EZ/1040A, limited time only.	N/A - Non-video	No	Hyperlink: Body of email itself
8	GX 390	TY16	Email	Absolute Zero 1040EZ/A	N/A - Non-video	No	Hyperlink: Body of email itself
9	GX 376	TY17	Email	Absolute Zero Forms 1040EZ/1040A	N/A - Non-video	No	Hyperlink: Body of email itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
10	RX 025	TY17	TurboTax Website	<p>Absolute Zero</p> <p>Qualifying language includes:</p> <p>60 million hard-working Americans can file their federal (1040EZ/1040A) and state taxes and so can you, if you:</p> <ul style="list-style-type: none"> - Made less than \$100,000. - Don't own a home or rental property. - Didn't sell investments. - Don't have a business or have 1099-MISC expenses. - Don't have any major medical expenses. 	N/A - Non-video	No	N/A - Free Edition qualifications page from TurboTax Website
11	GX 375	TY17	Email	<p>Absolute Zero</p> <p>Forms 1040EZ/1040A, limited time only.</p>	N/A - Non-video	No	Hyperlink: Body of email itself
12	RX 023	TY17	TurboTax Website	<p>Absolute Zero</p> <p>Forms 1040EZ/1040A, limited time only. Returns must be filed before offer ends.</p>	N/A - Non-video	No	"See why it's free"
13	GX 344	TY17	TV / Video	<p>TurboTax Absolute Zero</p> <p>AbsoluteZero product only. For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.</p>	N/A	No	N/A - Video
14	GX 775	TY17	TV / Video	<p>TurboTax Absolute Zero</p> <p>Absolute Zero product only. For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.</p>	N/A	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
15	GX 324	TY17	TV / Video	TurboTax Absolute Zero For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.	With TurboTax AbsoluteZero, at least your taxes are free.	No	N/A - Video
16	GX 325	TY17	TV / Video	TurboTax Absolute Zero Absolute Zero product only. For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.	N/A	No	N/A - Video
17	GX 345	TY17	TV / Video	TurboTax Absolute Zero For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.	With TurboTax AbsoluteZero, at least your taxes are free.	No	N/A - Video
18	GX 346	TY17	TV / Video	TurboTax Absolute Zero AbsoluteZero product only. For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.	N/A	No	N/A - Video
19	GX 347	TY17	TV / Video	TurboTax Absolute Zero For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.	With TurboTax AbsoluteZero, at least your taxes are free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
20	GX 774	TY17	TV / Video	TurboTax Absolute Zero Absolute Zero product only. For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See offer details at TurboTax.com.	N/A	No	N/A - Video
21	GX 776	TY17	TV / Video	TurboTax Absolute Zero For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See details at TurboTax.com	With TurboTax AbsoluteZero, at least your taxes are free.	No	N/A - Video
22	GX 777	TY17	TV / Video	TurboTax Absolute Zero For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See details at TurboTax.com	With TurboTax AbsoluteZero, at least your taxes are free.	No	N/A - Video
23	GX 786	TY17	TV / Video	TurboTax Free; Free Edition For simple U.S. returns. Offer may end without notice, customer must file taxes before offer ends to file for free. See details at TurboTax.com	With TurboTax AbsoluteZero, at least your taxes are free.	No	N/A - Video
24	GX 371	TY17	Email	TurboTax Free Edition Qualifying language includes: - Pay \$0 to file your simple federal taxes with TurboTax. - File your simple Fed Return for \$0. - TurboTax Free Edition, 1040EZ/A. - Pay \$0 to file your simple federal taxes with TurboTax Free Edition (1040EZ/ 1040A returns).	N/A - Non-video	No	Hyperlinks in email include: - File your simple Fed return for \$0. -File Now. - Pay \$0 to prepare and file your simple federal taxes.

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
25	GX 377	TY17	Email	For simple tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
26	GX 668 - INTUIT-FFA-FTC-000169115	TY17	TV / Video	Absolute Zero N/A - Draft Ad	N/A	No	N/A - Video
27	GX 785	TY17	TV / Video	Absolute Zero Para reembolsos sencillos en EE. UU. Solamente La oferta puede terminar sin aviso, el cliente debe hacer la declaracion fiscal antes de que Termina la oferta para que aquella sea gratis. ea los detalles de la oferta en TurboTax.com.	Con TurboTax AbsoluteZero, por lo menos sus taxes son gratis.	No	N/A - Video
28	GX 716	TY18	TV / Video	TurboTax Free; TurboTax Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right TurboTax Free is Free.	No	N/A - Video
29	GX 805	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
30	GX 779	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
31	GX 800	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
32	GX 811	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
33	GX 822	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
34	GX 300	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video
35	GX 328	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video
36	GX 329	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video
37	RX 201	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
38	GX 348	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
39	GX 380	TY18	Email	Easily and accurately finish and file your simple tax return for free. For simple tax returns.	N/A - Non-video	No	Hyperlink: Body of email itself
40	RX 122	TY18	TurboTax Website	TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed Qualifying language includes: - Simple Tax Returns. - You'll pay nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, guaranteed.	N/A - Non-video	No	"Simple tax return"
41	RX 133	TY18	TurboTax Website	Easily and accurately file your simple tax returns for FREE.	N/A - Non-video	No	"See why it's free"
42	GX 379	TY18	Email	For simple tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
43	GX 381	TY18	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
44	RX 022	TY18	TurboTax Website	TurboTax Live; TurboTax Self-employed Easily and accurately file your simple tax returns for FREE.	N/A - Non-video	No	"See why it's free"
45	GX 299	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video
46	GX 330	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
47	GX 331	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video
48	GX 721	TY18	TV / Video	TurboTax Free; TurboTax Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is Free.	No	N/A - Video
49	GX 803	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
50	GX 815	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
51	GX 163 (Schiller Decl. ¶ 79 Screenshot 1)	TY18	TurboTax Website	TurboTax Free Easily and accurately file your simple tax returns for FREE.	N/A - Non-video	No	"See why it's free"
52	GX 164 (Schiller Decl. ¶ 79 Screenshot 2)	TY18	TurboTax Website	TurboTax Free Easily and accurately file your simple tax returns for FREE.	N/A - Non-video	No	"See why it's free"
53	GX 059	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
54	GX 326	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free is free.	No	N/A - Video
55	GX 349	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
56	GX 327	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right, TurboTax Free, is free.	No	N/A - Video
57	GX 778	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
58	GX 378	TY18	Email	For simple tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
59	GX 350	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
60	GX 351	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
61	GX 717	TY18	TV / Video	TurboTax Free; TurboTax Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right TurboTax Free is Free.	No	N/A - Video
62	GX 807	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
63	GX 821	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
64	GX 837	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
65	GX 332	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
66	GX 356	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
67	GX 720	TY18	TV / Video	TurboTax Free; TurboTax Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
68	GX 165 (Schiller Decl. ¶ 80)	TY18	TurboTax Website	TurboTax Free Edition Qualifying language includes: Situations not covered in TurboTax Free Edition include: - Itemized deductions (Schedule A) - Business or 1099-MISC Income (Schedule C) - Stock Sales (Schedule D) - Rental property income (Schedule E) - Credits, deductions and income reported on schedules 1-6, such as the Student Loan Interest Deduction.	N/A - Non-video	No	"See why it's free"
69	RX 128	TY18	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns.	N/A - Non-video	No	Hyperlink: Body of email itself
70	GX 387	TY18	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
71	RX 127	TY18	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns.	N/A - Non-video	No	Hyperlink: Body of email itself
72	RX 129	TY18	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns.	N/A - Non-video	No	Hyperlink: Body of email itself
73	GX 672 - INTUIT-FFA-FTC-000528224	TY18	TV / Video	TurboTax Free Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
74	GX 669 - INTUIT-FFA-FTC-000169118	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
75	GX 719	TY18	TV / Video	TurboTax Free; TurboTax Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right TurboTax Free is Free.	No	N/A - Video
76	GX 804	TY18	TV / Video	TurboTax Free; Free Edition Start now at turbotax.com. Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
77	GX 816	TY18	TV / Video	TurboTax Free; Free Edition Start now at turbotax.com. Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
78	GX 827	TY18	TV / Video	TurboTax Free; Free Edition Start now at turbotax.com. Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
79	GX 670 - INTUIT- FFA-FTC- 000528218	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
80	GX 802	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
81	GX 671 - INTUIT-FFA-FTC-000528220	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
82	GX 718	TY18	TV / Video	TurboTax Free; TurboTax Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at TurboTax.com.	That's right TurboTax Free is Free.	No	N/A - Video
83	GX 825	TY18	TV / Video	TurboTax Free; Free Edition Free Edition product only. For simple U.S. returns. Offer subject to change. See details at turbotax.com.	That's right, TurboTax Free is free.	No	N/A - Video
84	GX 691	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
85	GX 692	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
86	GX 240	TY19	TurboTax Website	<p>TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed</p> <p>Qualifying language includes:</p> <ul style="list-style-type: none"> - Simple Tax Returns. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, guaranteed. 	N/A - Non-video	No	"Simple tax return"
87	RX 008	TY19	TurboTax Website	<p>TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed</p> <p>Qualifying language includes:</p> <ul style="list-style-type: none"> - Simple Tax Returns. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, guaranteed. 	N/A - Non-video	No	"Simple tax return"
88	GX 383	TY19	Email	Simple Tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
89	GX 386	TY19	Email	TurboTax Free Edition TurboTax Free Edition, simple tax returns	N/A - Non-video	No	Hyperlink: Body of email itself
90	GX 171 - Declaration of Diana F. Shiller (GX 342) ¶ 102	TY19	Email	TurboTax Free Edition TurboTax Free Edition, simple returns only	N/A - Non-video	No	Hyperlink: Body of email itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
91	GX 172 - Declaration of Diana F. Shiller (GX 342) ¶ 103	TY19	Email	TurboTax Free Edition TurboTax Free Edition, simple returns only	N/A - Non-video	No	Hyperlink: Body of email itself
92	GX 166 - Declaration of Diana F. Shiller (GX 342) ¶ 95	TY19	TurboTax Website	Your simple returns can be well on their way to complete	N/A - Non-video	No	"Simple returns"
93	GX 698	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
94	GX 699	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
95	GX 806	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
96	GX 702	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
97	GX 820	TY19	TV / Video	TurboTax Free Edition; TurboTax Free TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
98	GX 700	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
99	GX 695	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
100	GX 169 - Declaration of Diana F. Shiller (GX 342) ¶ 100	TY19	Paid Search	TurboTax Free Edition Over 50 million Americans can file with TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
101	GX 167 - Declaration of Diana F. Shiller (GX 342) ¶ 98	TY19	Paid Search	TurboTax Free Edition Over 50 million Americans can file with TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
102	GX 170 - Declaration of Diana F. Shiller (GX 342) ¶ 101	TY19	Paid Search	TurboTax Free Edition Over 50 million Americans can file with TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
103	GX 168 - Declaration of Diana F. Shiller (GX 342) ¶ 99	TY19	Paid Search	TurboTax Free Edition Over 50 million Americans can file with TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
104	GX 696	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
105	GX 697	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
106	GX 701	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
107	GX 693	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
108	GX 694	TY19	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free is free.	No	N/A - Video
109	GX 180 - Declaration of Diana F. Shiller (GX 342) ¶ 121	TY20	Paid Search	Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
110	GX 705	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
111	GX 706	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
112	GX 829	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
113	GX 709	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
114	GX 181 - Declaration of Diana F. Shiller (GX 342) ¶ 122	TY20	Email	TurboTax Free Edition TurboTax Free Edition, for simple returns only	N/A - Non-video	No	Hyperlink: Body of email itself
115	RX 138	TY20	TurboTax Website	TurboTax Live; TurboTax Live Basic; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed Qualifying language includes: - For simple tax returns only. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, only.	N/A - Non-video	No	"Simple tax return"
116	RX 139	TY20	Display	TurboTax Free Edition Simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Ad itself
117	GX 183 - Declaration of Diana F. Shiller (GX 342) ¶ 125	TY20	TurboTax Website	TurboTax Free Edition For simple tax returns only	N/A - Non-video	No	"Simple tax return"
118	GX 173 - Declaration of Diana F. Shiller (GX 342) ¶ 114	TY20	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
119	RX 019	TY20	TurboTax Website	TurboTax Free Edition For simple tax returns only.	N/A - Non-video	No	"Simple tax returns"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
120	GX 836	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
121	GX 707	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
122	GX 708	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
123	GX 826	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
124	GX 182 - Declaration of Diana F. Shiller (GX 342) ¶ 123	TY20	Email	TurboTax Free Edition TurboTax Free Edition, for simple returns only	N/A - Non-video	No	Hyperlink: Body of email itself
125	GX 177 - Declaration of Diana F. Shiller (GX 342) ¶ 118	TY20	Paid Search	N/A - Ad should not have been disseminated	N/A - Non-video	No	Hyperlink: search result
126	GX 179 - Declaration of Diana F. Shiller (GX 342) ¶ 120	TY20	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
127	GX 506	TY20	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
128	GX 603	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer Subject to change.	Who's that? A free TurboTax Live tax expert. File a simple return for free, now with advice from a TurboTax Live expert.	No	N/A - Video
129	GX 616	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer Subject to change.	Who's that? A free TurboTax Live tax expert. File a simple return for free, now with advice from a TurboTax Live expert.	No	N/A - Video
130	GX 703	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is Free.	No	N/A - Video
131	GX 704	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
132	GX 835	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
133	GX 611	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
134	GX 606	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
135	GX 612	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
136	GX 607	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. File a simple return free, with free expert advice until 2/15. TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer Subject to change.	File a simple return for free, now with advice from a TurboTax live expert.	No	N/A - Video
137	GX 602	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 5/3 for free offer. Offer Subject to change.	File a simple return for free, now with advice from a TurboTax live expert.	No	N/A - Video
138	GX 545	TY20	TV / Video	TurboTax Free Edition Simple tax returns only. File by 5/17.	N/A - No verbal free claim	No	N/A - Video
139	GX 507	TY20	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
140	GX 522	TY20	TV / Video	Simple tax returns only Creative copy headline: "File your Fed & State taxes for FREE with TurboTax. Simple tax returns only." see RX 1030	N/A - No verbal free claim	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
141	GX 520	TY20	TV / Video	TurboTax Free Edition Simple tax returns only	N/A - No verbal free claim	No	N/A - Video
142	GX 524	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 2/15. Creative copy headline: "Are you filing taxes with 100% confidence?" See RX 1030 Creative copy body: "TurboTax Live: File Fed & State FREE plus get unlimited tax advice from real experts. Simple filers only. Must file by 2/15." see RX 1030	N/A - No audio	No	N/A - Video
143	GX 530	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 2/15. Creative copy headline: "100% Free for simple tax returns only" see RX 1030	N/A - No verbal free claim	No	N/A - Video
144	GX 531	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 2/15. Creative copy headline: "Free for simple tax returns only" see RX 1030	N/A - No verbal free claim	No	N/A - Video
145	GX 537	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 3/27. Creative copy headline: "100% Free for simple tax returns only" see RX 1030	N/A - No verbal free claim	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
146	GX 510	TY20	TV / Video	Simple tax returns only Creative copy headline: "File your Fed & State taxes for FREE with TurboTax. Simple tax returns only." see RX 1030	Simple tax returns only	No	N/A - Video
147	GX 539	TY20	TV / Video	For simple tax returns only. Must file by 3/27. Creative copy headline: "File with 100% confidence with TurboTax Live" see RX 1030	N/A - No verbal free claim	No	N/A - Video
148	GX 509	TY20	TV / Video	TurboTax Free Edition Simple tax returns only	N/A - No audio	No	N/A - Video
149	GX 505	TY20	Display	TurboTax Live Basic Simple tax returns only Creative copy headline: "Get a free tax expert review with TurboTax Live" see RX 1030 Creative copy body: "100% Free for simple tax returns only: Unlimited live tax advice - when you need it. 100% confidence with TurboTax Live. Must file by 2/15." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
150	GX 528	TY20	TV / Video	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "Simply click to talk to real tax experts" see RX 1030</p> <p>Creative copy body: "File Fed & State FREE plus get unlimited tax advice from real experts. Simple returns only. Must file by 2/15. File today with TurboTax Live." see RX 1030</p>	N/A - No audio	No	N/A - Video
151	GX 529	TY20	TV / Video	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "Get the app File by 2/15!" see RX 1030</p> <p>Creative copy body: "100% Free for simple tax returns only: Unlimited live tax advice - when you need it. 100% confidence with TurboTax Live." see RX 1030</p>	N/A - No audio	No	N/A - Video
152	GX 532	TY20	Display	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "Free for simple tax returns only" see RX 1030</p>	N/A - No verbal free claim	No	N/A - Video
153	GX 533	TY20	TV / Video	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "100% Free for simple tax returns only" see RX 1030</p>	N/A - No verbal free claim	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
154	GX 534	TY20	Display	TurboTax Live Basic Simple tax returns only. Must file by 2/15. Creative copy headline: "Get a free tax expert review with TurboTax Live" see RX 1030 Creative copy body: "100% Free for simple tax returns only: Unlimited live tax advice - when you need it. 100% confidence with TurboTax Live. Must file by 2/15." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
155	GX 535	TY20	Display	TurboTax Live Basic Simple tax returns only. Must file by 3/27. Creative copy headline: "Get a free tax expert review with TurboTax Live" see RX 1030 Creative copy body: "100% Free for simple tax returns only: Unlimited live tax advice - when you need it. 100% confidence with TurboTax Live. Must file by 3/27." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
156	GX 536	TY20	Display	TurboTax Live Basic Simple tax returns only. Must file by 3/27.	N/A - Non-video	No	Hyperlink: Ad itself
157	GX 538	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 3/27. Creative copy headline: "100% Free for simple tax returns only" see RX 1030	N/A - No verbal free claim	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
158	GX 546	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must File by 5/3. Creative copy headline: "100% Free for simple tax returns only" see RX 1030	N/A - No verbal free claim	No	N/A - Video
159	GX 523	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 2/15. Creative copy headline: "Tax experts just a click away for advice & answers" see RX 1030 Creative copy body: "File Fed & State FREE plus talk to tax experts as you go. Simple returns only. Must file by 2/15. Get TurboTax Live Basic." see RX 1030	N/A - No audio	No	N/A - Video
160	GX 630	TY20	Radio	N/A - Radio	Free Edition product only for simple U.S. returns. Offer subject to change. See details at turbotax.com.	No	N/A - Radio
161	GX 521	TY20	TV / Video	TurboTax Free Edition Simple tax returns only	N/A - No verbal free claim	No	N/A - Video
162	GX 543	TY20	TV / Video	TurboTax Free Edition Simple tax returns only. File by 5/17.	N/A - No verbal free claim	No	N/A - Video
163	GX 627	TY20	Radio	N/A - Radio	Free Edition product only for simple U.S. returns. Offer subject to change. See details at turbotax.com.	No	N/A - Radio
164	GX 613	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
165	GX 609	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
166	GX 605	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
167	GX 508	TY20	Display	TurboTax Free Edition Simple tax returns only Creative copy headline: "Time To Get Your Max Refund" see RX 1030 Creative copy body: "Grab your phone or tablet and file Federal & State for \$0. Guaranteed with TurboTax for simple tax returns only!" see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
168	GX 527	TY20	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
169	GX 608	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
170	GX 604	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
171	GX 615	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
172	GX 710	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
173	GX 629	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
174	GX 610	TY20	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
175	GX 542	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must file by 3/27. Creative copy headline: "Free for simple tax returns only" see RX 1030	With TurboTax Live, file your fed and state taxes 100% free. Plus, for a limited time, get unlimited tax expert advice and a final review. Simple tax returns only. Must file by 3/27.	No	N/A - Video
176	GX 547	TY20	TV / Video	TurboTax Live Basic Simple tax returns only. Must File by 5/3. Creative copy headline: "100% Free for simple tax returns only" see RX 1030	With TurboTax Live, file your fed and state taxes 100% free. Plus, for a limited time, get unlimited tax expert advice and a final review. Simple tax returns only. Must file by 3/27.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
177	GX 525	TY20	TV / Video	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "Get the app File by 2/15!" see RX 1030</p> <p>Creative copy body: "100% Free for simple tax returns only: Unlimited live tax advice - when you need it. 100% confidence with TurboTax Live." see RX 1030</p>	<p>Simple tax returns only, file fed and state taxes for free. Plus, for a limited time, connect free with a live tax expert and get a final review for 100% confidence. Get the TurboTax app today.</p>	No	N/A - Video
178	GX 526	TY20	TV / Video	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "Just click for advice & answers from real tax experts" see RX 1030</p> <p>Creative copy body: "File Fed & State FREE plus get unlimited tax advice from real experts. Simple returns only. Must file by 2/15. File today with TurboTax Live." see RX 1030</p>	<p>Simple tax returns only, file fed and state taxes for free. Plus, for a limited time, connect free with a live tax expert and get a final review for 100% confidence. Get the TurboTax app today.</p>	No	N/A - Video
179	GX 516	TY20	TV / Video	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p>	<p>Simple tax returns only</p>	No	N/A - Video
180	GX 517	TY20	TV / Video	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p>	<p>Simple tax returns only</p>	No	N/A - Video
181	GX 519	TY20	TV / Video	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p>	<p>Simple tax returns only</p>	No	N/A - Video
182	GX 540	TY20	TV / Video	<p>Simple tax returns only.</p>	<p>Simple tax returns only.</p>	No	N/A - Video
183	GX 541	TY20	TV / Video	<p>Simple tax returns only.</p>	<p>Simple tax returns only.</p>	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
184	GX 511	TY20	TV / Video	TurboTax Free Edition Simple tax returns only Creative copy headline: "Get the app Your taxes done right" See RX 1030 Creative copy body: "Simple tax returns only, file for FREE with TurboTax. \$0 Fed. \$0 State. \$0 to File." see RX 1030	Simple tax returns only	No	N/A - Video
185	GX 512	TY20	TV / Video	TurboTax Free Edition Simple tax returns only	Simple tax returns only	No	N/A - Video
186	GX 514	TY20	TV / Video	TurboTax Free Edition Simple tax returns only	Simple tax returns only	No	N/A - Video
187	GX 518	TY20	TV / Video	Simple tax returns only	Simple tax returns only	No	N/A - Video
188	GX 544	TY20	TV / Video	Simple tax returns only. File by 5/17. Creative copy headline: "With TurboTax you pay \$0 Fed. \$0 State. \$0 to File. Simple tax returns only." see RX 1030	Simple tax returns only	No	N/A - Video
189	GX 513	TY20	TV / Video	TurboTax Free Edition Simple tax returns only Creative copy headline: "Get the app Your taxes done right" See RX 1030 Creative copy body: "Simple tax returns only, file for FREE with TurboTax. \$0 Fed. \$0 State. \$0 to File." see RX 1030	Simple tax returns only	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
190	GX 515	TY20	TV / Video	TurboTax Free Edition Simple tax returns only	Simple tax returns only	No	N/A - Video
191	GX 828	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer Subject to change.	That's Dave, a free TurboTax Live tax expert. File a simple return for free, now with advice from a TurboTax Live expert.	No	N/A - Video
192	GX 838	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer Subject to change.	That's Dave, a free TurboTax Live tax expert. File a simple return for free, now with advice from a TurboTax Live expert.	No	N/A - Video
193	GX 614	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer Subject to change.	That's Dave, a free TurboTax Live tax expert. File a simple return for free, now with advice from a TurboTax Live expert.	No	N/A - Video
194	GX 601	TY20	TV / Video	TurboTax Live Basic Tax prep varies by individual. TurboTax Live Basic is for simple tax returns only. See if you qualify at turbotax.com. Must file by 5/3 for free offer. Offer Subject to change.	That's Dave, a free TurboTax Live tax expert. File a simple return for free, now with advice from a TurboTax Live expert.	No	N/A - Video
195	GX 178 - Declaration of Diana F. Shiller (GX 342) ¶ 119	TY20	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
196	GX 175 - Declaration of Diana F. Shiller (GX 342) ¶ 117 Screenshot 1	TY20	Display	N/A - Screenshot of video	N/A - Screenshot of video	No	N/A - Screenshot of video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
197	GX 176 - Declaration of Diana F. Shiller (GX 342) ¶ 117 Screenshot 2	TY20	Display	N/A - Screenshot of video	N/A - Screenshot of video	No	N/A - Screenshot of video
198	GX 174 - Declaration of Diana F. Shiller (GX 342) ¶ 116	TY20	Display	TurboTax Free Edition TurboTax Free Edition is free for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	N/A - Screenshot of Video	No	"turbotax.intuit.com" and "Download"
199	GX 187 - Declaration of Diana F. Shiller (GX 342) ¶ 159 Screenshot 1	TY21	Display	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. Offer subject to change. See if you qualify at TurboTax.com.	N/A - Screenshot of Video	No	"turbotax.intuit.com" and "Download"
200	GX 188 - Declaration of Diana F. Shiller (GX 342) ¶ 159 Screenshot 2	TY21	Display	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. Offer subject to change. See if you qualify at TurboTax.com.	N/A - Screenshot of Video	No	"turbotax.intuit.com" and "Download"
201	GX 714	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at TurboTax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at TurboTax.com	No	N/A - Video
202	GX 713	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at TurboTax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at TurboTax.com	No	N/A - Video
203	GX 849	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
204	RX 202	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
205	GX 200	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
206	GX 202	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
207	GX 189 - Declaration of Diana F. Shiller (GX 342) ¶¶ 161- 62	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
208	GX 477 - Declaration of Diana F. Shiller (GX 342) ¶ 172	TY21	Email	TurboTax Free Edition TurboTax Free Edition, for simple returns only	N/A - Non-video	No	Hyperlink: Body of email itself
209	GX 486 - Declaration of Diana F. Shiller (GX 342) ¶ 190	TY21	TurboTax Website	Qualifying language includes: - For simple returns only. - Simple tax returns only. - Must file by 3/31.	N/A - Non-video	No	"Simple tax returns" and "Simple tax returns only"
210	GX 487 - Declaration of Diana F. Shiller (GX 342) ¶ 191	TY21	TurboTax Website	For simple tax returns only	N/A - Non-video	No	"For simple tax returns only"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
211	GX 488 - Declaration of Diana F. Shiller (GX 342) ¶ 192	TY21	TurboTax Website	For simple tax returns only	N/A - Non-video	No	"For simple tax returns only"
212	GX 198 - Declaration of Diana F. Shiller (GX 342) ¶ 170	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
213	GX 196 - Declaration of Diana F. Shiller (GX 342) ¶ 169 Screenshot 1	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
214	GX 197 - Declaration of Diana F. Shiller (GX 342) ¶ 169 Screenshot 2	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
215	GX 201 - Declaration of Diana F. Shiller (GX 342) ¶ 208	TY21	TurboTax Website	TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed Qualifying language includes: - For simple tax returns only. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, only.	N/A - Non-video	No	"Simple tax return"
216	GX 491 - Declaration of Diana F. Shiller (GX 342) ¶ 195	TY21	TurboTax Website	TurboTax Free Edition For simple tax returns only	N/A - Non-video	No	"For simple tax returns only"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
217	GX 492 - Declaration of Diana F. Shiller (GX 342) ¶ 196	TY21	TurboTax Website	TurboTax Free Edition For simple tax returns only	N/A - Non-video	No	"For simple tax returns only"
218	GX 485 - Declaration of Diana F. Shiller (GX 342) ¶ 189	TY21	TurboTax Website	TurboTax Free Edition For simple tax returns only	N/A - Non-video	No	"Simple tax return"
219	GX 206	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
220	GX 208	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
221	GX 204	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
222	GX 715	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at TurboTax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at TurboTax.com	No	N/A - Video
223	GX 722	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is Free. See details at turbotax.com.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
224	GX 848	TY21	TV / Video	TurboTax Free Edition For simple tax returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
225	GX 307	TY21	TV / Video	TurboTax Live Basic For simple tax returns only. See if you qualify at turbotax.com. Must file by 3/31 for free offer. Offer subject to change.	Did you know a TurboTax Live expert can do your simple tax return for you? For Free. It's true. For a limited time, TurboTax is free for simple returns, even when an expert files for you.	No	N/A - Video
226	GX 844	TY21	TV / Video	TurboTax Live For simple tax returns only. See if you qualify at turbotax.com. Must file by 3/31 for free offer. Offer subject to change.	Did you know a TurboTax Live expert can do your simple tax return for you? For Free. It's true. For a limited time, TurboTax is free for simple returns, even when an expert files for you.	No	N/A - Video
227	GX 489 - Declaration of Diana F. Shiller (GX 342) ¶ 193	TY21	TurboTax Website	Simple tax returns only. Must file by 3/31.	N/A - Non-video	No	"Simple tax returns only"
228	GX 309	TY21	TV / Video	TurboTax Live Basic For simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer subject to change.	Anyone with a simple tax return can get help from an expert for free. With TurboTax live, our experts will even do your taxes for you for free. For a limited time, TurboTax is free for simple returns, no matter how you file.	No	N/A - Video
229	GX 856	TY21	TV / Video	TurboTax Live For simple tax returns only. See if you qualify at turbotax.com. Must file by 2/15 for free offer. Offer subject to change.	Anyone with a simple tax return can get help from an expert for free. With TurboTax live, our experts will even do your taxes for you for free. For a limited time, TurboTax is free for simple returns, no matter how you file.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
230	GX 193 - Declaration of Diana F. Shiller (GX 342) ¶ 166	TY21	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
231	GX 194 - Declaration of Diana F. Shiller (GX 342) ¶ 167	TY21	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
232	GX 195 - Declaration of Diana F. Shiller (GX 342) ¶ 168	TY21	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
233	GX 190 - Declaration of Diana F. Shiller (GX 342) ¶ 163	TY21	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
234	GX 191 - Declaration of Diana F. Shiller (GX 342) ¶ 164	TY21	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
235	GX 192 - Declaration of Diana F. Shiller (GX 342) ¶ 165	TY21	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
236	GX 490 - Declaration of Diana F. Shiller (GX 342) ¶ 194	TY21	TurboTax Website	TurboTax Free Edition Solo declaraciones simples. Debes realizar la presentación a más tardar el 31/3.	N/A - Non-video	No	"Solo declaraciones simples"
237	GX 551	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
238	GX 553	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
239	GX 567	TY21	Display	Displayed together with other creative with additional qualifying language, including "Simple Tax Returns Only. Must file by 3/31." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
240	GX 576	TY21	Display	<p>Creative copy headline: "Get the right Free tax filing option for you Answer simple questions about your situation Get unlimited advice from tax experts Let a tax expert do it all for you" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only. Must file by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
241	GX 577	TY21	Display	<p>Creative copy headline: "Get the right Free tax filing option for you Answer simple questions about your situation Get unlimited advice from tax experts Let a tax expert do it all for you" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only. Must file by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
242	GX 579	TY21	Display	<p>Creative copy headline: "Get the right Free tax filing option for you Answer simple questions about your situation Get unlimited advice from tax experts Let a tax expert do it all for you" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only. Must file by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
243	GX 582	TY21	TV / Video	Simple tax returns only. Must file by 2/15.	Only from TurboTax. Simple tax returns only. Must file by 2/15.	No	N/A - Video
244	GX 589	TY21	TV / Video	Simple tax returns only. Must file by 3/31.	Only from TurboTax. Simple tax returns only. Must file by 3/31.	No	N/A - Video
245	GX 592	TY21	TV / Video	Simple tax returns only. Must file by 3/31.	Only from TurboTax. Simple tax returns only. Must file by 3/31.	No	N/A - Video
246	GX 548	TY21	Display	<p>Simple tax returns only. Must File by 2/15</p> <p>Creative copy headline: "File Free Now" see RX 1030</p> <p>Creative copy body: "File Free, even when an expert does your taxes for you. Simple tax returns only. For a limited time." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
247	GX 571	TY21	Display	<p>Creative copy headline: "File Free your way" see RX 1030</p> <p>Creative copy body: "Simple tax returns. File by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
248	GX 557	TY21	TV / Video	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p> <p>Creative copy headline: "IRS deadline is 4/18 Get the app now." see RX 1030</p> <p>Creative copy body: "Beat the deadline! File Fed & State for \$0 with America's #1 Free Tax Prep provider. Simple tax returns only." see RX 1030</p>	N/A - No verbal free claim	No	N/A - Video
249	GX 561	TY21	TV / Video	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p> <p>Creative copy headline: "See Why TurboTax is America's #1 Free Tax Provider" see RX 1030</p> <p>Creative copy body: "File Fed & State for \$0 with America's #1 Free Tax Prep provider. Simple tax returns only." see RX 1030</p>	N/A - No verbal free claim	No	N/A - Video
250	GX 711	TY21	TV / Video	<p>TurboTax Free Edition</p> <p>TurboTax Free Edition is for simple U.S. returns only. See if you qualify at TurboTax.com. Offer subject to change.</p>	That's right, TurboTax Free Edition is free. See details at TurboTax.com	No	N/A - Video
251	GX 712	TY21	TV / Video	<p>TurboTax Free Edition</p> <p>TurboTax Free Edition is for simple U.S. returns only. See if you qualify at TurboTax.com. Offer subject to change.</p>	That's right, TurboTax Free Edition is free. See details at TurboTax.com	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
252	GX 855	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
253	GX 621	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
254	GX 623	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
255	GX 626	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
256	GX 628	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
257	GX 620	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video
258	GX 619	TY21	TV / Video	TurboTax Live For simple returns only.	Did you know a TurboTax Live expert can do your simple tax return for you? For free.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
259	GX 570	TY21	Display	Creative copy headline: "Don't miss this offer" see RX 1030 Creative copy body: "Do it yourself, or we do it for you, free w/TurboTax. Simple taxes only. Offer ends 3/31." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
260	GX 586	TY21	Display	TurboTax Free Edition Simple tax returns only.	N/A - Non-video	No	Hyperlink: Ad itself
261	GX 559	TY21	TV / Video	TurboTax Free Edition Simple tax returns only	N/A - No verbal free claim	No	N/A - Video
262	GX 482 - Declaration of Diana F. Shiller (GX 342) ¶ 181	TY21	TurboTax Website	TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed Qualifying language includes: - For simple tax returns only. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, only.	N/A - Non-video	No	"Simple tax return"
263	GX 588	TY21	Display	TurboTax Free Edition Simple tax returns only.	N/A - Non-video	No	Hyperlink: Ad itself
264	GX 585	TY21	Display	TurboTax Free Edition Simple tax returns only.	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
265	GX 578	TY21	Display	<p>Creative copy headline: "Get the right Free tax filing option for you Answer simple questions about your situation Get unlimited advice from tax experts Let a tax expert do it all for you" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only. Must file by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
266	GX 549	TY21	Display	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p> <p>Creative copy headline: "Max Refund, Guaranteed" see RX 1030</p> <p>Creative copy body: "File Free with TurboTax: \$0 Fed. \$0 State. \$0 to File. Simple tax returns only" see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
267	GX 550	TY21	Display	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p> <p>Creative copy headline: "Now is the Time to File Your Taxes" see RX 1030</p> <p>Creative copy body: "The IRS is accepting returns and the deadline is coming. Grab your phone or tablet and file Federal & State for \$0 with TurboTax. Simple tax returns only." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
268	GX 563	TY21	Display	<p>TurboTax Free Edition</p> <p>Simple tax returns only</p>	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
269	GX 583	TY21	Display	TurboTax Free Edition Simple tax returns only.	N/A - Non-video	No	Hyperlink: Ad itself
270	GX 600	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
271	GX 552	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
272	GX 556	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
273	GX 566	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
274	GX 584	TY21	Display	TurboTax Free Edition Simple tax returns only.	N/A - Non-video	No	Hyperlink: Ad itself
275	GX 483 - Declaration of Diana F. Shiller (GX 342) ¶ 187	TY21	TurboTax Website	TurboTax Free Edition For simple tax returns only	N/A - Non-video	No	"Simple tax return"
276	GX 564	TY21	Display	TurboTax Live Basic Simple tax returns only. Must file by 3/31. Creative copy headline: "Get a Free Tax Expert Review with TurboTax Live" see RX 1030 Creative copy body: 100% Free for simple tax returns only: Unlimited live tax advice - when you need it. File with 100% confidence with TurboTax Live." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
277	GX 569	TY21	Display	<p>TurboTax Live Basic</p> <p>Simple tax returns only. Must file by 3/31.</p> <p>Creative copy headline: "File Free now Max refund, guaranteed" see RX 1030</p> <p>Creative copy body: "100% Free for simple tax returns only: Unlimited live tax advice - when you need it. 100% confidence with TurboTax Live." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
278	GX 598	TY21	Display	<p>Simple tax returns only. Must file by 3/31.</p> <p>Creative copy headline: "Get The Right FREE Tax Filing Option for You" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, FREE. Only from TurboTax. Simple tax returns only. Must file by 3/31.." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
279	GX 599	TY21	TV / Video	Simple tax returns only. Must file by 3/31.	N/A - No verbal free claim	No	N/A - Video
280	GX 618	TY21	Radio	N/A - Radio	TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	No	N/A - Radio
281	GX 617	TY21	Radio	N/A - Radio	TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	No	N/A - Radio
282	GX 625	TY21	TV / Video	<p>TurboTax Free Edition</p> <p>TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.</p>	That's right, TurboTax Free Edition is free. See details at turbotax.com.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
283	GX 624	TY21	TV / Video	TurboTax Free Edition TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	That's right, TurboTax Free Edition is free.	No	N/A - Video
284	GX 554	TY21	Display	TurboTax Free Edition Simple tax returns only	N/A - Non-video	No	Hyperlink: Ad itself
285	GX 580	TY21	Display	Simple tax returns only. Must file by 2/15.	N/A - Non-video	No	Hyperlink: Ad itself
286	GX 574	TY21	Display	Simple tax returns only. Must file by 2/15.	N/A - Non-video	No	Hyperlink: Ad itself
287	GX 591	TY21	TV / Video	Simple tax returns only. Must file by 3/31.	Simple tax returns only. Must file by March 31st.	No	N/A - Video
288	GX 597	TY21	TV / Video	Simple tax returns only. Must file by 3/31. Creative copy headline: "Free offer ends soon" see RX 1030 Creative copy body: "Experts file your taxes for you, free. Simple taxes only. Offer ends soon, file by 3/31." see RX 1030	N/A	No	N/A - Video
289	GX 480 - Declaration of Diana F. Shiller (GX 342) ¶ 173	TY21	Email	TurboTax Free Edition TurboTax Free Edition, for simple returns only	N/A - Non-video	No	Hyperlink: Body of email itself
290	GX 587	TY21	Display	Simple tax returns only. Must file by 2/15.	N/A - Non-video	No	Hyperlink: Ad itself
291	GX 555	TY21	Display	Simple tax returns only. Must file by 2/15.	N/A - Non-video	No	Hyperlink: Ad itself
292	GX 575	TY21	Display	Simple tax returns only. Must file by 2/15.	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
293	GX 565	TY21	Display	<p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "From Do It Yourself to We Do It For You, Free" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
294	GX 568	TY21	Display	<p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "File Free now Max refund, guaranteed" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
295	GX 572	TY21	Display	<p>Simple tax returns only. Must file by 2/15.</p> <p>Creative copy headline: "Get The Right FREE Tax Filing Option for You" see RX 1030</p> <p>Creative copy body: "From do it yourself to we do it for you, FREE. Only from TurboTax. Simple tax returns only. Offer ends soon! Must file by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself
296	GX 594	TY21	Display	<p>Simple tax returns only. Must file by 3/31.</p> <p>Creative copy headline: "Get The Right Free Tax Filing Option for You" see RX 1030</p> <p>Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only. Must file by 3/31." see RX 1030</p>	N/A - Non-video	No	Hyperlink: Ad itself

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
297	GX 596	TY21	Display	Simple tax returns only. Must file by 3/31.	N/A - Non-video	No	Hyperlink: Ad itself
298	GX 560	TY21	Display	Simple tax returns only. Must file by 2/15. Creative copy headline: "File Free Now" see RX 1030 Creative copy body: "File Free, even when an expert does your taxes for you. Simple tax returns only. For a limited time." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
299	GX 573	TY21	Display	Simple tax returns only. Must file by 2/15. Creative copy headline: "Get the Right Free Tax Filing Option for You" see RX 1030 Creative copy body: "New! From do it yourself to we do it for you, Free. Only from TurboTax. Simple tax returns only. Must file by 3/31." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
300	GX 595	TY21	Display	Simple tax returns only. Must file by 3/31. Creative copy headline: "File Free Now Max Refund, Guaranteed" see RX 1030 Creative copy body: "File Free, even when an expert does your taxes for you. Simple tax returns only. For a limited time." see RX 1030	N/A - Non-video	No	Hyperlink: Ad itself
301	GX 590	TY21	TV / Video	Simple tax returns only. Must file by 3/31.	Only from TurboTax. Simple tax returns only. Must file by 3/31.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
302	GX 593	TY21	TV / Video	Simple tax returns only. Must file by 3/31. Creative copy headline: "Have an Expert File Your Taxes for You, Free" see RX 1030 Creative copy body: "New! File Free: Do it yourself, with expert help, or have an expert do your taxes for you. Simple tax returns only. Must file by 3/31." see RX 1030	Only from TurboTax. Simple tax returns only. Must file by 3/31.	No	N/A - Video
303	GX 581	TY21	TV / Video	Simple tax returns only. Must file by 2/15. Creative copy headline: "Tax Experts Do Your Taxes for You, Free" see RX 1030 Creative copy body: "Don't miss this from TurboTax: real tax experts do your taxes for you, completely FREE. Simple tax returns only. Must file by 3/31." see RX 1030	Only from TurboTax. Simple tax returns only. Must file by 2/15.	No	N/A - Video
304	GX 562	TY21	TV / Video	TurboTax Free Edition Simple tax returns only	N/A - No verbal free claim	No	N/A - Video
305	GX 558	TY21	TV / Video	TurboTax Free Edition Simple tax returns only. Download the app now.	Simple tax returns only. Get the TurboTax app now.	No	N/A - Video
306	GX 843	TY21	TV / Video	TurboTax Free Edition Simple tax returns only. File by 4/18. Download the app now.	Simple tax returns only. Get the TurboTax app now.	No	N/A - Video
307	GX 622	TY21	TV / Video	TurboTax Live For simple U.S. returns only. See if you qualify at turbotax.com. Must file by 3/31 for free offer. Offer subject to change.	Did you know a TurboTax Live expert can do your simple tax return for you? For Free. It's true. For a limited time, TurboTax is free for simple returns, even when an expert files for you.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
308	RX 032	TY21	TV / Video	TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com. Offer subject to change.	N/A - Video Script	No	N/A - Video Script
309	GX 199 - Declaration of Diana F. Shiller (GX 342) ¶ 171	TY21 (Post- Season)	Display	TurboTax Free Edition File your simple tax returns FREE	N/A - Non-video	No	Hyperlink: Ad itself
310	GX 496 - Declaration of Diana F. Shiller (GX 342) ¶ 204	TY21 (Post- Season)	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
311	GX 497 - Declaration of Diana F. Shiller (GX 342) ¶ 205	TY21 (Post- Season)	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition	N/A - Non-video	No	Hyperlink: search result
312	RX 005	TY21 (Post- Season)	TurboTax Website	TurboTax Free Edition Qualifying language includes: - For simple tax returns only. - If you have a simple tax return, you can file your taxes online for free with TurboTax Free Edition.	N/A - Non-video	No	"Simple tax return" and "See if you qualify"
313	RX 009	TY21 (Post- Season)	TurboTax Website	TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed Qualifying language includes: - For simple tax returns only. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, only.	N/A - Non-video	No	"Simple tax return"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
314	RX 010	TY21 (Post-Season)	TurboTax Website	<p>TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed</p> <p>Qualifying language includes:</p> <ul style="list-style-type: none"> - For simple tax returns only. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, only. 	N/A - Non-video	No	"Simple tax return"
315	GX 666 - F01-TUT-0010598	TY21 (Post-Season)	Paid Search	<p>TurboTax Free Edition</p> <p>Free for Simple Tax Returns Only With TurboTax Free Edition</p>	N/A - Non-video	No	Hyperlink: search result
316	GX 667 - F01-TUT-0010599	TY21 (Post-Season)	TurboTax Website	<p>TurboTax Live; TurboTax Free Edition; TurboTax Deluxe; TurboTax Premier; TurboTax Self-Employed</p> <p>Qualifying language includes:</p> <ul style="list-style-type: none"> - For simple tax returns only. - You'll pay absolutely nothing to file your federal and state taxes if you have a simple tax return. - Free filing of your simple federal and state tax returns, only. 	N/A - Non-video	No	"Simple tax return"
317	RX 1437	TY22	Paid Search	<p>TurboTax Free Edition</p> <p>Free for Simple Tax Returns Only With TurboTax Free Edition. See if you qualify today.</p>	N/A - Non-video	No	Hyperlink: search result

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
318	RX 1439	TY22	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition. See if you qualify today.	N/A - Non-video	No	Hyperlink: search result
319	RX 1425	TY22	Display	Simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Ad itself
320	RX 1500	TY22	TurboTax Website	TurboTax Live Assisted / Basic Simple tax returns only. See if you qualify. Must file by 3/31.	N/A - Non-video	No	"See if you qualify"
321	RX 1419	TY22	Display	TurboTax Free Edition Simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Ad itself
322	RX 1431	TY22	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Body of email itself
323	RX 1436	TY22	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition. See if you qualify today.	N/A - Non-video	No	Hyperlink: search result
324	RX 1447	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
325	RX 1453	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
326	RX 1459	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
327	RX 1460	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
328	RX 1466	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
329	RX 1469	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
330	RX 1475	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
331	RX 1476	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
332	RX 1480	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
333	RX 1483	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
334	RX 1486	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
335	RX 1489	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
336	RX 1423	TY22	TV / Video	TurboTax Free Edition Simple tax returns only. See if you qualify.	Simple tax returns only. See if you qualify.	No	N/A - Video
337	RX 1456	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
338	RX 1457	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
339	RX 1444	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
340	RX 1449	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
341	RX 1452	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
342	RX 1454	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
343	RX 1455	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
344	RX 1462	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
345	RX 1463	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
346	RX 1464	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
347	RX 1465	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
348	RX 1470	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
349	RX 1471	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
350	RX 1472	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
351	RX 1473	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video
352	RX 1479	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
353	RX 1481	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
354	RX 1482	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
355	RX 1484	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
356	RX 1487	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
357	RX 1446	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change.	N/A - No verbal free claim	No	N/A - Video
358	RX 1451	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
359	RX 1458	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
360	RX 1461	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
361	RX 1467	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
362	RX 1468	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
363	RX 1474	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
364	RX 1477	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No verbal free claim	No	N/A - Video
365	RX 1478	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
366	RX 1485	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"
367	RX 1488	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	N/A - No audio	No	"Learn more"

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
368	RX 1432	TY22	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Body of email itself
369	RX 1433	TY22	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Body of email itself
370	RX 1434	TY22	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Body of email itself
371	RX 1435	TY22	Email	TurboTax Free Edition TurboTax Free Edition, for simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Body of email itself
372	RX 1441	TY22	Paid Search	TurboTax Free Edition; TurboTax Live Assisted / Basic If you have a simple tax return you can file for free with TurboTax Free Edition or TurboTax Live Assisted Basic.	N/A - Non-video	No	Hyperlink: search result
373	RX 1428	TY22	TV / Video	TurboTax Live Assisted / Basic File 100% free with expert help. Unlimited help plus a final review - FREE. Simple tax returns only. See if you qualify.	Get live tax expert help free. Plus a final review free with TurboTax Live. Simple tax returns only. See if you qualify.	No	N/A - Video
374	RX 1429	TY22	TV / Video	TurboTax Live Assisted / Basic File 100% free with expert help. Unlimited help plus a final review - FREE. Simple tax returns only. See if you qualify.	Get live tax expert help free. Plus a final review free with TurboTax Live. Simple tax returns only. See if you qualify.	No	N/A - Video

No.	Exhibit Number	Tax Year	Medium	Written Qualifying Language	Verbal Qualifying Language	Is Express Claim "TurboTax Is Free"?	Hyperlink
375	RX 1430	TY22	TV / Video	TurboTax Live Assisted / Basic File 100% free with expert help. Unlimited help plus a final review - FREE. Simple tax returns only. See if you qualify.	Get live tax expert help free. Plus a final review free with TurboTax Live. Pay \$0 to file simple tax returns only. See if you qualify.	No	N/A - Video
376	RX 1420	TY22	Display	TurboTax Free Edition Simple tax returns only. See if you qualify.	N/A - Non-video	No	Hyperlink: Ad itself
377	RX 1421	TY22	TV / Video	TurboTax Free Edition Simple tax returns only. See if you qualify.	Simple tax returns only. See if you qualify.	No	N/A - Video
378	RX 1442	TY22	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition. See if you qualify today.	N/A - Non-video	No	Hyperlink: search result
379	RX 1438	TY22	Paid Search	TurboTax Free Edition Free for Simple Tax Returns Only With TurboTax Free Edition. See if you qualify today.	N/A - Non-video	No	Hyperlink: search result
380	RX 1440	TY22	Paid Search	TurboTax Free Edition; TurboTax Live Filing Taxes is fast and easy with TurboTax Free Edition. See if you qualify today.	N/A - Non-video	No	Hyperlink: search result
381	RX 1443	TY22	Paid Search	TurboTax Free Edition Get your Max Refund today with TurboTax Free Edition. See if you qualify today.	N/A - Non-video	No	Hyperlink: search result
382	RX 1445	TY22	TV / Video	TurboTax Live Assisted / Basic Simple returns only. See if you qualify at turbotax.com. Ends 3/31. Offer subject to change	Filing a simple return for free with the help of a TurboTax expert. See if you qualify at turbotax.com	No	N/A - Video

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2023, I caused the foregoing document to be filed electronically using the FTC's E-Filing system, which will send notification of such filing to:

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Federal Trade Commission
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Washington, DC 20580
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The Honorable D. Michael Chappell
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that on March 17, 2023, I caused the foregoing document to be served via email to:

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The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

Dated: March 17, 2023

Respectfully submitted,

/s/ Derek Woodman
DEREK WOODMAN
Counsel for Intuit Inc