

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

**COMMISSIONERS:**      **Lina M. Khan, Chair**  
                                 **Rebecca Kelly Slaughter**  
                                 **Christine S. Wilson**  
                                 **Alvaro M. Bedoya**

**In the Matter of**

**Intuit Inc.,  
a corporation.**

**DOCKET NO. 9408**

**ORDER DIRECTING FURTHER PROCEEDINGS AND SPECIFYING FACTS  
WITHOUT SUBSTANTIAL CONTROVERSY**

Pursuant to Rule 3.24(a)(5) of the Federal Trade Commission’s Rules of Practice, 16 C.F.R. § 3.24(a)(5), the Commission hereby directs further proceedings in this action and specifies the facts that appear without substantial controversy. The Initial Decision’s findings of fact may supplement and modify the facts specified, as appropriate, to reflect additional detail and the resolution of factual disputes. Accordingly,

**IT IS HEREBY ORDERED THAT** the evidentiary hearing in this proceeding will commence on March 27, 2023, at 10:00 a.m.; and

**IT IS FURTHER ORDERED THAT** the following facts shall be deemed established for purposes of this proceeding:

1. Respondent Intuit Inc. is a Delaware corporation with its principal place of business in Mountain View, California. Compl. ¶ 1; Answer ¶ 1.<sup>1</sup>

---

<sup>1</sup> We use the following abbreviations for documents in this Order:

Compl.	Complaint (Mar. 28, 2022)
Answer	Answer and Affirmative Defenses of Respondent Intuit Inc. (Apr. 14, 2022)
CCSF	Complaint Counsel’s Statement of Material Facts as to Which There Is No Genuine Issue for Trial, appended to Mot. (Aug. 22, 2022)
GX	Complaint Counsel’s exhibit
RCCSF	Respondent Intuit Inc.’s Statement of Material Facts as to Which There Exists a Genuine Issue for Trial, Part I: Respondent’s Response to Complaint Counsel’s

2. Respondent advertises, markets, promotes, distributes, and sells TurboTax, a commonly-used online tax preparation service that enables users to prepare and file their income tax returns. Compl. ¶ 4; Answer ¶ 4.
3. Intuit offers a free version of TurboTax. The free version was called “Federal Free Edition” for tax year (“TY”) 2016 and “TurboTax Free Edition” thereafter. CCSF ¶ 6; RCCSF at 9; Answer ¶ 13.
4. Free Edition is available to taxpayers with “simple tax returns,” as defined by Intuit. Answer ¶ 14; RSF ¶¶ 2-3; CCRSF ¶¶ 2-3.
5. Many taxpayers do not have “simple tax returns,” as defined by Intuit, and so do not qualify for Free Edition. Compl. ¶ 6; Answer ¶ 6; RSF ¶¶ 2, 13; CCRSF ¶¶ 2, 13.
6. For consumers whose returns are not considered “simple tax returns,” as defined by Intuit, Intuit offers paid TurboTax products. For instance, consumers with mortgage and property deductions, charitable donations over \$300, itemized deductions, unemployment income, and education expenses can file their taxes using TurboTax Deluxe. Consumers with investment income and rental property income and refinancing deductions can file using TurboTax Premium. And consumers with expenses from self-owned businesses can file their taxes using TurboTax Self-Employed, the most comprehensive TurboTax product. RSF ¶ 4; CCRSF ¶ 4.
7. Customers who are not eligible for Free Edition may begin preparing their taxes in that product. Upon entering disqualifying information, they are presented with a screen that informs them that they will need to upgrade to a paid product capable of supporting their tax needs in order to continue using TurboTax. RSF ¶ 64; CCRSF ¶ 64; Golder Decl. ¶¶ 128, 130, 133; Compl. ¶ 45; Answer ¶ 45.
8. Intuit has promoted its free offering through multiple advertising channels, including television, the TurboTax website, social media, and paid search advertising. Ryan Decl. ¶¶ 18, 20, 23-26; RSF ¶ 36; Answer ¶ 21; *see also* CCSF ¶¶ 18-24; RCCSF at 9.
9. For example, in one television ad, a voiceover states, among other things, “you can file on TurboTax for absolutely nothing.” RX 200. In another set of

---

	Statement of Material Facts as to Which There is No Genuine Issue for Trial (Aug. 30, 2022)
RSF	Respondent Intuit Inc.’s Statement of Material Facts as to Which There Exists a Genuine Issue for Trial, Part II: Statement of Material Facts as to Which There Exists a Genuine Issue for Trial (Aug. 30, 2022)
RX	Respondent’s exhibit
CCRSF	Complaint Counsel’s Responses and Objections to Intuit Inc.’s Statement of Material Facts as to Which There Exists a Genuine Issue for Trial

commercials, “free” is essentially the only word spoken by the actors, until the voiceover at the end states, “That’s right. TurboTax Free is free. Free, free free free.” *See, e.g.*, GX 299; GX 328; GX 329; GX 331; GX 332; GX 348; GX 350; GX 356.

10. Many of Intuit’s ads contain a written disclosure indicating that the offer is limited to consumers with “simple tax returns” or “simple U.S. returns only” or similar verbiage. RSF ¶¶ 5, 20, 22, 25, 27, 28, 30, 31, 36, 38; CCRSF ¶¶ 5, 20, 22, 25, 27, 28, 30, 31, 36, 38. Some television or video ads also include audible references to “simple tax returns” or “simple returns.” *See* GX 307; GX 309; CCSF ¶¶ 114, 116; RCCSF ¶¶ 114, 116.

By the Commission.

April J. Tabor  
Secretary

SEAL:  
ISSUED: January 31, 2023