



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Office of the Director  
Bureau of Consumer Protection

August 8, 2007

John Villafranco, Esq.  
Lewis Rose, Esq.  
Kelley Drye Collier Shannon  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington DC 20007-5108

Re: Sprint Nextel Corporation

Dear Messrs. Villafranco and Rose:

As you know, the staff of the Federal Trade Commission has conducted an investigation into possible violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by your client, Sprint Nextel Corporation ("Sprint"). In particular, the investigation initially focused on claims made on Sprint's website that its 5 megabyte ("MB") iDEN BlackBerry plan included unlimited web usage for a flat monthly fee. After staff learned that the same claim had been made earlier on the Nextel Communications Inc. ("Nextel") website for Nextel's 3 MB iDEN BlackBerry plan, the investigation broadened to include Nextel's service. The advertisement for the 5 MB BlackBerry plan stated that subscribers would receive 5 MB of email usage and *unlimited* web usage for a flat monthly fee. The advertisement for the 3 MB BlackBerry plan stated that subscribers would receive 3 MB of email usage and Java application usage, and *unlimited* web usage for a flat monthly fee. Our investigation revealed, however, that the e-mail, Java application, and web usage *combined* of subscribers to these plans were subject to the 3 MB and 5 MB limits, respectively. Staff believes that your client's claims of unlimited web usage were deceptive.

Notwithstanding this position, staff has determined to close this investigation. No one factor was dispositive in this regard. Rather, a number of factors, including the following, were considered in making this determination.

Your client presented persuasive evidence that the deceptive claims on the Nextel and Sprint websites were made inadvertently, rather than as part of a broader marketing campaign. One internal employee marketing bulletin mistakenly described the 3 MB iDEN Blackberry plan

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as having "unlimited web" and the bulletin was then used to create the plan's description on the website. This occurred during a time of significant staff turnover resulting from the pending merger of Nextel and Sprint Corporation. Due to the complexities of reconciling different plans for similar products previously offered by the two companies, the mistake was carried over to the description on the website of Sprint's 5 MB iDEN plan after the merger was completed. Your client demonstrated, however, that the "unlimited" claim did not appear in any other advertising materials.

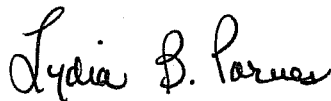
It is also noteworthy that within three weeks of learning about the erroneous "unlimited" claim from Commission staff, Sprint corrected the website. Moreover, Sprint cooperated promptly and fully with staff during the investigation and provided all of the information that staff requested.

In addition, Sprint initiated a voluntary refund program that more than fully redressed the injury that may have been caused by the erroneous language. Approximately 24,000 customers signed up for the 3 and 5 MB iDEN plans while the erroneous language appeared on the website, and only one in fifteen of those subscribers signed up online. Fewer than one-third of iDEN Blackberry subscribers incurred overage charges, and many of those may not have seen the "unlimited" claim on the website. Nonetheless, Sprint quickly and voluntarily implemented a program to refund all overage charges, as well as any early termination fees, to every iDEN Blackberry subscriber who incurred such charges during the relevant time period. In doing this, Sprint did not require any demonstration that a particular subscriber had seen the erroneous language or that the overage charges resulted from Internet usage, rather than from e-mail or Java application usage. Thus, because Sprint paid refunds to many more subscribers than likely saw the claim and refunded charges that might not have resulted from Internet usage, consumer injury has been more than fully redressed.

Although the investigation is being closed, staff takes very seriously the sorts of claims investigated here and will continue to monitor such claims made by Sprint, as well as those made by the rest of the industry.

The closing of this investigation is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,



Lydia B. Parnes  
Director