



Office of the Secretary

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

March 25, 2014

Rutter

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

Dear Sir or Madam:

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

In your comment, you express agreement with a statement by Commissioner Wright that the Commission is substituting its judgment for Apple's decisions on how to design its products, and suggest that the magnitude of harm to the specific consumers injured here does not justify a complaint or order.

We take your concerns and those expressed by Commissioner Wright in his dissenting statement seriously, and in voting to place the proposed complaint and order on the public record, we have provided further explanation of our reasoning in separate statements, one by Chairwoman Ramirez and Commissioner Brill, and one by Commissioner Ohlhausen. We refer you to those statements rather than attempting to summarize them here, but we wish to highlight two points.

First, the proposed complaint alleges that tens of thousands of consumers have complained about unauthorized in-app charges by children, amounting to millions of dollars. Some consumers complained about hundreds to thousands of dollars of unauthorized charges. That constitutes a substantial injury to consumers. Further, these injuries were caused by Apple's failure to obtain informed consent from account holders during the in-app billing process. Apple was aware of the issue of unauthorized charges by March 2011, but did not make changes to its billing platform to provide consumers with sufficient information to obtain their consent to charges—in particular, to inform account holders that password entry would approve a charge or initiate a fifteen-minute window during which children using the app could incur charges without further action by the account holder.

Second, the proposed order requires Apple to obtain to obtain express, informed consent to in-app charges before billing for such charges—a principle that applies to all companies, both online and offline—but it does not require a specific method by which Apple must obtain that consent. Rather, the proposed order provides Apple considerable flexibility in deciding how to alter the design of its in-app billing process in order to obtain informed consent to all charges.

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

By direction of the Commission, Commissioner Wright dissenting.

Donald S. Clark
Secretary