

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

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

In the Matter of
Intuit Inc.,
 a corporation.

Docket No. 9408

ORDER

Definitions

For the purposes of this Order, the following definitions apply:

A. **“Advertisement”** means any written or oral statement, illustration, or depiction that promotes the sale or use of a consumer good or service, or is designed to increase consumer interest in a brand, good, or service.

B. **“Clearly and Conspicuously”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

- 1) In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
- 2) A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

- 3) An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
- 4) In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.
- 5) On a product label, the disclosure must be presented on the principal display panel.
- 6) The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
- 7) The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
- 8) The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
- 9) When the representation or sales practice targets a specific audience, such as older adults, “ordinary consumers” includes reasonable members of that audience.

C. **“Close Proximity”** means that the disclosure is very near the triggering representation. For example, a disclosure made through a hyperlink, pop-up, interstitial, or similar technique is not in close proximity to the triggering representation.

D. **“Free”** means that the consumer pays nothing for a good or service.

E. **“Space-Constrained Advertisement”** means any Advertisement that has space, time, format, size, or technological restrictions that preclude the disclosures required by provision I.B of this Order. Space-Constrained Advertisements do not include Advertisements on the TurboTax website or app, in emails, or on any other advertising platform or medium owned or controlled, directly or indirectly, by Respondent.

Provisions

I.

Prohibition Concerning “Free” Offers

IT IS ORDERED THAT Respondent, Respondent’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual

notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, must not represent that a good or service is “Free” unless:

- A. Respondent offers the good or service for Free to all consumers; or
- B. If Respondent does not offer the good or service for Free to all consumers, the following requirements are satisfied:
 - 1) The Advertisement discloses Clearly and Conspicuously in Close Proximity to the “Free” claim the percentage of U.S. taxpayers (or other U.S. consumers, where the good or service is not offered exclusively to U.S. taxpayers), expressed in Arabic numerals, that qualify for the product. If the good or service is not Free for a majority of U.S. taxpayers (or other U.S. consumers, where the good or service is not offered exclusively to U.S. taxpayers), the Advertisement may alternatively disclose that a majority of U.S. taxpayers (or other U.S. consumers) do not qualify; and
 - 2) Following the disclosure required in provision I.B.1 of this Order, the Advertisement discloses Clearly and Conspicuously all the terms, conditions, and obligations upon which receipt and retention of the “Free” good or service are contingent so as to leave no reasonable probability that the terms of the offer might be misunderstood.
- C. If the Advertisement is a Space-Constrained Advertisement, it must include the disclosure required in provision I.B.1. of this Order but need not include the disclosure of all terms, conditions, and obligations required in provision I.B.2. of this Order so long as the Advertisement Clearly and Conspicuously directs consumers to view eligibility requirements on a landing page or webpage on a TurboTax website that Clearly and Conspicuously features the disclosures required in provision I.B.2. of this Order. In addition, if the Space-Constrained Advertisement is online, the consumer must be able to directly reach such landing page or webpage by clicking on (1) a hyperlink identified by the direction to consumers to view the eligibility requirements, or (2) the Advertisement itself. Respondent bears the burden of showing that there is a constraint such that the Advertisement constitutes a Space-Constrained Advertisement.

II.

Prohibited Misrepresentations

IT IS FURTHER ORDERED THAT Respondent, Respondent’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, must not misrepresent or assist others in misrepresenting, expressly or by implication, any material fact, including:

A. The cost of any of Respondent's goods or services, including any TurboTax product or service;

B. That consumers can only file their taxes online accurately if they use a paid TurboTax product or service;

C. That consumers can only claim a tax credit or deduction if they use a paid TurboTax product or service; and

D. Any other fact material to consumers concerning any good or service, such as: the total costs; any refund policy; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

III.

Acknowledgments of the Order

IT IS FURTHER ORDERED THAT Respondent obtain acknowledgments of receipt of this Order:

A. Respondent, within 10 days of the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 20 years after the issuance date of this Order, Respondent must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Report[s] and Notices. Delivery must occur within 10 days of the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Respondent delivered a copy of this Order, that Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

IV.

Compliance Reports and Notices

IT IS FURTHER ORDERED THAT Respondent make timely submissions to the Commission:

A. One year after the issuance date of this Order, Respondent must submit a compliance report, sworn under penalty of perjury, in which Respondent must:

- 1) Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Respondent;
- 2) Identify all of Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
- 3) Describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales;
- 4) Describe in detail whether and how Respondent is in compliance with each Provision of this Order, including a discussion of all of the changes the Respondent made to comply with the Order; and
- 5) Provide a copy of each Acknowledgment of the Order obtained pursuant to this Order, unless previously submitted to the Commission.

B. After the effective date of this Order, Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

- 1) Any designated point of contact; or
- 2) The structure of Respondent or any entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. After the effective date of this Order, Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Respondent within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov (copy to ElectronicFilings@ftc.gov) or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re Intuit Inc., Docket No. 9408.

V.

Recordkeeping

IT IS FURTHER ORDERED THAT Respondent must create certain records for 20 years after issuance of the Order and retain each such record for 5 years. Specifically, Respondent must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;
- B. Personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Copies or records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each unique Advertisement or other marketing material relating to TurboTax products or services.

VI.

Compliance Monitoring

IT IS FURTHER ORDERED THAT, for the purpose of monitoring Respondent's compliance with this Order:

- A. After the effective date, within 10 days of receipt of a written request from a representative of the Commission, Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.
- B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with Respondent. Respondent must permit representatives of the Commission to interview anyone affiliated with Respondent who has agreed to such an interview. The interviewee may have counsel present.
- C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondent or any individual or entity affiliated with Respondent, without the necessity of identification or prior

notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

VII.

Order Effective Date

IT IS FURTHER ORDERED THAT the final and effective date of this Order is the 60th day after this Order is served. This Order will terminate 20 years from the date of its issuance (which date may be stated at the end of this Order, near the Commission's seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court alleging any violation of this Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Provision in this Order that terminates in less than 20 years;
- B. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

April J. Tabor
Secretary

SEAL
ISSUED: January 19, 2024