

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

2004 AUG 25 AM 10:45  
CLERK'S OFFICE  
TAMPA, FLORIDA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CIVIL ACTION NO.

28 U.S.C. §§ 1391(b) and (c)

**PLAINTIFF**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by the FTC Act, 15 U.S.C. §§ 41 *et seq.* The Commission

is empowered, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a)

**COMMERCE**

6. At all times material hereto, Defendant has been engaged in the business of offering for sale and selling magazines and buying service memberships, in or affecting

"..." is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**DEFENDANT'S COURSE OF CONDUCT**

7. At least since 1997, Defendant has marketed and sold magazine subscriptions,

to ... to cover magazine subscriptions for terms of one to

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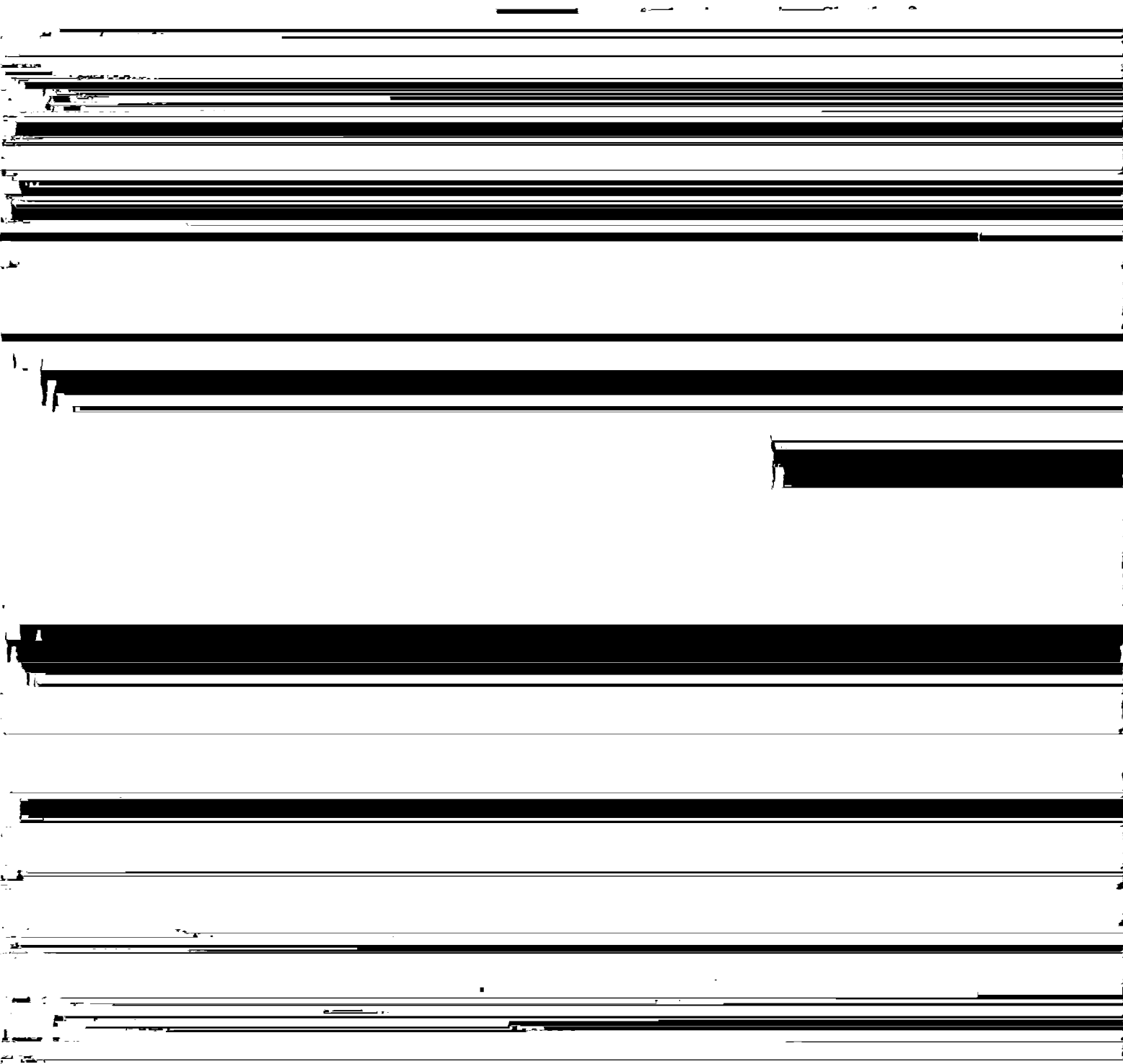
consumer has already provided a credit card number to purchase the product or service initially offered by the telemarketer.

14 T 11-1 7/1/10 1008 and 1000 Defendant represented

that consumers will receive a "no obligation" 30-day membership in the Triad discount buying service through which consumers can purchase various goods at discount prices.

order. Defendant did not at this time mention any credit card charges relating to the Triad or other buying service membership.

17. If consumers agreed or purportedly agreed to the trial memberships, and in some instances, even if consumers did not agree, Defendant provided the consumers' names



**THE FEDERAL TRADE COMMISSION ACT**

19. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that “unfair or deceptive acts or practices in or affecting commerce are hereby declared unlawful.”

**VIOLATION OF SECTION 5(a) OF THE FTC ACT**

**COUNT I**

20. In numerous instances, in connection with the advertising, promotion, marketing, offering for sale, sale, or distribution of Triad and other buying service membership, Defendant has represented, expressly or by implication, that consumers who

24. Defendant has failed to disclose or to disclose adequately to consumers:

A. That a consumer who fails to contact the buying service within 30 days and cancel the trial membership is automatically enrolled as a member in the buying service and the consumer's credit card is charged an

annual fee; and

B. That a member's credit card is charged a renewal fee each subsequent year unless the member cancels the membership



28. Therefore, Defendant's practice, as alleged in Paragraph 26 is unfair in

**THE TELEMARKETING SALES RULE**

29. In the Telemarketing Act, 15 U.S.C. § 6101 *et seq.*, Congress directed the FTC

CONFIDENTIAL - SECURITY INFORMATION

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**VIOLATIONS OF THE TELEMARKETING SALES RULE**

**COUNT IV**

39. In numerous instances, in connection with the telemarketing of Triad and other buying service memberships, Defendant has failed to disclose, in a clear and conspicuous

for the buying service memberships, all material restrictions

manner to the person receiving the call: (a) the identity of the seller; and (b) that the purpose of the call is to sell magazines.

42. Therefore, Defendant's acts and practices as set forth in paragraph 41 violate Sections 310.4(d)(1) and (2) of the TSR, 16 C.F.R. § 310.4(d)(1) and (2).

CONSUMER INJURY

loss as a result of Defendant's unlawful acts and practices. In addition, Defendant has been unjustly enriched as a result of its unlawful acts and practices. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers, reap unjust enrichment, and

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests this Court, as authorized by Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and pursuant to its own equitable powers to:

1. Permanently enjoin and restrain Defendant from engaging or assisting others

~~in violation of the FTC Act and the TSR.~~

2. Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FTC Act and the TSR, including, but not limited to, rescission of contracts and restitution, other forms of redress, and the disgorgement of ill-gotten monies; and
3. Award Plaintiff the costs of bringing this action, as well as such additional

~~in relief as the Court may determine to be just and proper.~~

