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**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Deborah Platt Majoras, Chairman  
Pamela Jones Har**



of-purchase documentation and proof that the consumer has maintained uninterrupted wireless service for a designated period of time.

- A. Respondent's "customer loyalty" rebate has required the submission of a rebate form that respondent was to send to the consumer with the wireless device, a copy of the sales receipt, a copy of the UPC code from the wireless device's box, and a copy of the wireless service bill demonstrating that the consumer has maintained uninterrupted service for a designated period of time (typically 150 days after phone activation). Further, to be valid, the consumer's rebate request, with all required documentation, has had to be postmarked within a specified window of time, typically 180-210 days after phone activation. (*See, e.g.*, Exhibit B).
- B. Respondent's "customer appreciation rebate" has required the submission of a rebate form that respondent was to send to the consumer with the wireless device, a copy of the sales receipt, a copy of the UPC code from the wireless device's box, a copy of the "Guide to Wireless Service" that respondent was to send to the consumer with the wireless device, and copies of several wireless service bills. Further, to be valid, this rebate request, with all supporting documentation, has had to be postmarked within 120 days after phone activation. (*See, e.g.*, Exhibit C).

6. Respondent typically advertises available rebates on its Web sites. (*See, e.g.*, Exhibit A). Each listed rebate has a hyperlink. A consumer who clicks the hyperlink is taken to a page which describes some of the extensive terms and conditions of the advertised rebate. Consumers can purchase the package without viewing these terms and conditions. In addition, there is nothing on the link itself to inasselsv,5 a ndio20 0.0000 0.0000 cm0.00 0.00 0.00 rgBT72.0000 411.3600 TD(6.)TjET1.

3. Include the following information with your rebate form:

...

- Copy of your 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> wireless bills showing customer name, mobile number, and bill/invoice date for this account showing all balances paid in full (bills must be dated within 120 days after purchase date).

....”

(Exhibit C, InPhonic rebate form (Offer BAK).

8. Numerous consumers seeking to redeem respondent’s “customer appreciation rebate” waited for a fourth wireless bill to show that the 180-day period had expired. The following table

“IF YOU ARE REQUIRED TO RESUBMIT MISSING, INCORRECT, OR ILLEGIBLE INFORMATION, YOUR CLAIM STATUS WILL BE UPDATED AT [RESPONDENT’S REBATE STATUS] WEBSITE.” (See, e.g., Exhibit B).

12. In spite of these practices, in numerous cases, respondent has denied consumers a reasonable opportunity to re-submit deficient rebate requests. For example, many consumers have not been able to cure a rebate request because the fulfillment house has notified them about the deficiency too late. Specifically, consumers who had submitted requests in a timely manner, but whose request contained missing, illegible or incorrect information, have received notice of the deficiency after the last day on which a request would be accepted under the terms of the original rebate offer. In such cases, respondent has denied as untimely attempts by the consumer to resubmit the rebate request.

13. All of respondent’s rebate offers have represented that consumers would receive their rebate checks within twelve weeks of respondent’s receipt of the rebate request. In numerous cases, consumers experienced significant delays in receiving their promised rebates.

DECEPTIVE FAILURE TO DISCLOSE MATERIAL  
TERMS AND CONDITIONS OF REBATE OFFERS

14. Through the means described in Paragraphs 4 through 6, respondent has represented, expressly or by implication, that substantial mail-in rebates were available to purchasers of respondent’s wireless telephone packages. Respondent has failed to disclose or has failed to disclose adequately that:

- A. consumers would not be able to submit a request until at least three or six months after purchase;
- B. consumers would be required to submit wireless bills establishing three or six months of continuous wireless service in good standing;
- C. consumers would not receive their rebate check until approximately six or nine months after purchase;
- D. an email address would be required to be eligible for the rebate;
- E. consumers who changed their wireless phone numbers after purchase would be disqualified from receiving a rebate; and
- F. any rebate submission that did not strictly comply with all rebate terms and conditions or that was deemed in any way illegible could be rejected with little or no opportunity to resubmit.



LATE DELIVERY – UNFAIR PRACTICE

20. In connection with its rebate programs, respondent promised to provide consumers with rebate checks within 12 weeks of rebate submission, if they purchased a wireless phone and service plan, and submitted a valid rebate request with supporting documentation. After receiving rebate requests in conformance with these terms, respondent failed to deliver the rebates to consumers within the promised time period. Respondent extended the time period in which it would deliver the rebates to consumers without consumers agreeing to this extension of time. Respondent's failure to deliver the rebate checks to consumers within the originally-promised time period has caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. This practice was, and is, an unfair act or practice.

21. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this    day of           , 2007, has issued this complaint against respondent.

By the Commission.

Donald S. Clark  
Secretary