

charged and to prevent CompuServe from engaging in similar acts and practices in the future. Specifically, Paragraph I of the proposed order prohibits CompuServe, in connection with advertising, promoting, selling, or distributing any online service, from misrepresenting the terms or conditions of any trial offer of such online service.

Paragraph II of the proposed consent order prohibits CompuServe, in connection with advertising, promoting, selling, or distributing any online service, from representing that the online service is “free,” “without risk,” “without charge,” “without further obligation,” or words of similar effect unless CompuServe discloses, “clearly and prominently,” any obligation to cancel or take other affirmative action to avoid charges for use of the Online Service.

Paragraph II also contains two provisos that set out the requirements of a “clear and prominent” disclosure. First, with respect to a covered representation made by CompuServe in detailed instructional materials distributed to consumers (*e.g.*, starter kits and guidebooks), the disclosure must be in a type size and in a location that are sufficiently noticeable so that an ordinary consumer could notice, read, and comprehend it. Second, as to representations made through other media, CompuServe must provide a statement directing consumers to a location where the required disclosure will be available (*e.g.*, “For conditions and membership details,” followed by: “load up trial software” or “see registration process” or words of similar effect). Audio statements shall be delivered in a volume and cadence sufficient for an ordinary consumer to notice, hear, and comprehend them. Video statements shall be of a size and shade and shall appear for a duration sufficient for an ordinary consumer to notice, read, and comprehend them. In the case of print media, the statement shall be in a type size and in a location sufficient for an ordinary consumer to notice, read, and comprehend it.

Paragraph III supplements Paragraph II. It provides that CompuServe, in connection with advertising, promoting, selling, or distributing any online service, shall disclose, “clearly and prominently,” during the final registration process, and prior to consumers incurring any financial obligation or liability, the terms of all mandatory financial obligations that will be incurred by consumers as a result of using such online service. Specifically, subparagraph III.A. requires CompuServe to disclose the financial terms and conditions of any plan (*e.g.*, trial offer) by which consumers enroll in or renew enrollment in the online service. Moreover, if such plan exists, CompuServe must disclose, “clearly and prominently,” any obligation to cancel or take other affirmative action to avoid charges and provide at least one reasonable means by which consumers may effectively cancel their enrollment. Subparagraph III.B. requires CompuServe to disclose any mandatory membership, enrollment, or usage fees (*e.g.*, monthly or hourly usage charges).⁰² TD -0tory mee Tw (, monthly or hoo membershuServe to) Tjla 9Tkol et) Audio, statin, Qj/

907(a) of the EFTA and Section 205.10(b) of Regulation E. In addition, CompuServe must provide advance notice of electronic fund transfers from consumer accounts that vary in amount from previous transfers, as required by Section 907(b) of the EFTA and Section 205.10(d) of Regulation E.

Paragraphs V through IX contain provisions generally found in Commission consent orders, including record-keeping requirements, distribution requirements, notice requirements, and a requirement that CompuServe submit a report setting forth the manner in which it has complied with the consent order.

Finally, Paragraph X contains a provision terminating the order, under ordinary circumstances, twenty years from the date of its issuance.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.