

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

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

**DOCKET NO. 9408**

**ORDER DIRECTING FURTHER PROCEEDINGS AND SPECIFYING FACTS  
WITHOUT SUBSTANTIAL CONTROVERSY**

Pursuant to Rule 3.24(a)(5) of the Federal Trade Commission’s Rules of Practice, 16 C.F.R. § 3.24(a)(5), the Commission hereby directs further proceedings in this action and specifies the facts that appear without substantial controversy. The Initial Decision’s findings of fact may supplement and modify the facts specified, as appropriate, to reflect additional detail and the resolution of factual disputes. Accordingly,

**IT IS HEREBY ORDERED THAT** the evidentiary hearing in this proceeding will commence on March 27, 2023, at 10:00 a.m.; and

**IT IS FURTHER ORDERED THAT** the following facts shall be deemed established for purposes of this proceeding:

1. Respondent Intuit Inc. is a Delaware corporation with its principal place of business in Mountain View, California. Compl. ¶ 1; Answer ¶ 1.<sup>1</sup>

2. Respondent advertises, markets, promotes, distributes, and sells TurboTax, a commonly-used online tax preparation service that enables users to prepare and file their income tax returns. Compl. ¶ 4; Answer ¶ 4.
3. Intuit offers a free version of TurboTax. The free version was called “Federal Free Edition” for tax year (“TY”) 2016 and “TurboTax Free Edition” thereafter. CCSF ¶ 6; RCCSF at 9; Answer ¶ 13.
4. Free Edition is available to taxpayers with “simple tax returns,” as defined by Intuit. Answer ¶ 14; RSF ¶¶ 2-3; CCRSF ¶¶ 2-3.
5. Many taxpayers do not have “simple tax returns,” as defined by Intuit, and so do not qualify for Free Edition. Compl. ¶ 6; Answer ¶ 6; RSF ¶¶ 2, 13; CCRSF ¶¶ 2, 13.
6. For consumers whose returns are not considered “simple tax returns,” as defined by Intuit, Intuit offers paid TurboTax products. For instance, consumers with

commercials, “free” is essentially the only word spoken by the actors, until the voiceover at the end states, “That’s right. TurboTax Free is free. Free, free free free.” *See, e.g.*, GX 299; GX 328; GX 329; GX 331; GX 332; GX 348; GX 350; GX 356.

10. Many of Intuit’s ads contain a written disclosure indicating that the offer is limited to consumers with “simple tax returns” or “simple U.S. returns only” or similar verbiage. RSF ¶¶ 5, 20, 22, 25, 27, 28, 30, 31, 36, 38; CCRSF ¶¶ 5, 20, 22, 25, 27, 28, 30, 31, 36, 38. Some television or video ads also include audible references to “simple tax returns” or “simple returns.” *See* GX 307; GX 309; CCSF ¶¶ 114, 116; RCCSF ¶¶ 114, 116.

By the Commission.

April J. Tabor  
Secretary

SEAL:  
ISSUED: January 31, 2023