

FTC Settles Text Message Spamming Case

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The Federal Trade Commission (FTC) recently settled with two individuals and the advertising company they owned, Advert Marketing Inc., over sending millions of unwanted and unsolicited commercial text messages. The text messages promised free merchandise and gift cards to major retailers. However, when consumers went to the websites in the text messages, they were instructed to enter personal information and then shown links to the third-party websites of Advert Marketing's affiliates which reiterated the promise of free merchandise and gift cards. Receiving the promised merchandise and gift cards required spending money or signing up for services, as well as providing a variety of personal information to the third-party affiliates. Requests for the messages to stop were ignored.

The FTC's complaint alleged the messages were deceptive because they omitted mention of the tasks required to receive the incentives described in the messages. The order issued in the case bans the individuals from sending unwanted or unsolicited text messages, or assisting others in doing so. Also, the individuals were fined \$15,000 each (down from a \$4.2-million judgment, decreased due to their inability to pay), required to share the Order with all affiliate marketers (and get a signed acknowledgement from each affiliate), and required to destroy any consumer data in their possession.

TIP: This case is a reminder that the FTC will not hesitate to bring cases for text spamming issues. Advertisers should take care that claims in texts are not deceptive, even if there is limited space in the texts for such disclosures. The case also highlights a typical settlement term: the destruction of customer lists.

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