

■ Negative
□ Options



Lesley Fair
Bureau of Consumer Protection
Federal Trade Commission

■ Negative
□ Options



**This is a staff
presentation. It
doesn't reflect the
official position of the
FTC or the Bureau of
Consumer Protection.**

■ Negative
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FTC Policy Statement on Deception
Appended to Cliffdale Associates, Inc., 103 F.T.C. 110, 174 (1984)

DECEPTION STATEMENT

- **“Written disclosures or fine print may be insufficient to correct a misleading representation.”**
- **“Accurate information in the text may not remedy a false headline because reasonable consumers may glance only at the headline.”**
- **“Oral statements, label disclosures, or point-of-sale materials will not necessarily correct a deceptive representation or omission.”**

Negative
 Options

If the disclosure of information is necessary to prevent an ad or promotion from being deceptive, the disclosure must be:

CLEAR AND CONSPICUOUS

Negative
 Options



THE FOUR Ps

- **PROMINENCE**: Is it big enough for consumers to notice and read?
- **PRESENTATION**: Is wording and format easy for consumers to understand?
- **PLACEMENT**: Is it where consumers will look?
- **PROXIMITY**: Is it close to the claim it qualifies?

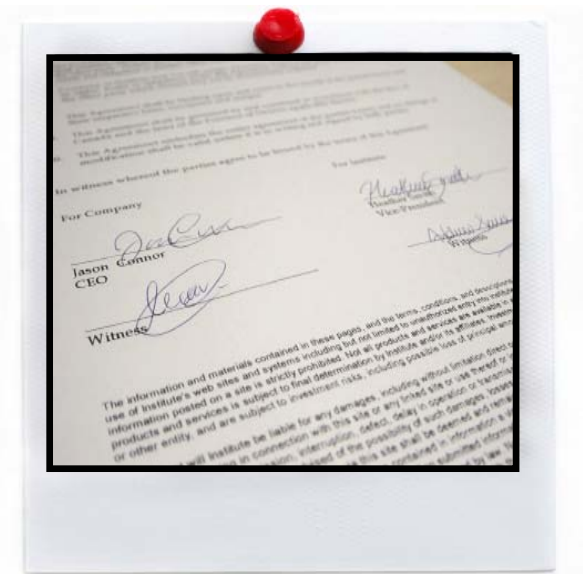
THE FOUR Ps

- **PROMINENCE**: Is it big enough for consumers to notice and read?
 - Is the type size big enough for consumers to read easily?
 - Is there a sharp contrast between the disclosure and background?
 - **NOTE:** The test is not “Is it readable?” but rather “Is it read?”



THE FOUR Ps

- **PRESENTATION**: Is wording and format easy for consumers to understand?
 - Is the wording easy to understand – and free of legal jargon?
 - Does the format encourage careful reading?
 - Does the font encourage careful reading?
 - Is it free of distractions that compete for consumer attention?



THE FOUR Ps

- **PLACEMENT**: Is it where consumers will look?
- **PROXIMITY**: Is it close to the claim it qualifies?
 - Is the information located so consumers can't miss it?
 - Is it in close physical proximity to the claim it qualifies?



Negative
 Options

COMPAQ PRESARIO 5304 SYSTEM

With rebates, including 15" monitor, speakers, color inkjet printer, keyboard, mouse, free shipping. Visit www.buy.com today for rebate details.

\$269



BUY.COM (FTC consent order)

■ Negative
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ONE LINE OF 4-POINT TYPE:

**BUY.COM,TM BUYCOMP.COM,TM
BUYSOFT.COM,TM BUYBOOKS.COM,TM
BUYVIDEOS.COM,TM BUYGAMES.COM,TM
BUYMUSIC.COM,TM and BUYSURPLUS.COMTM
are trademarks or service marks of BUY.COM,
Inc. Prices subject to change. Quantities
limited. Requires Compuserve activation. See
site for details. Buy.com reserves the right to
cancel this offer at any time.**

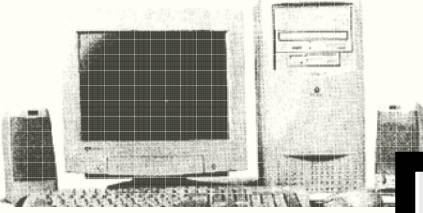
BUY.COM (FTC consent order)

Negative Options

Some PCs include a mouse pad. For \$1299, this one includes the Internet for a year. (And a mouse pad.)

Some PCs include a mouse pad.

For \$1299, this one includes the Internet for a year.
(And a mouse pad.)



Right now you can get a loaded Gateway™ Essential PC with an Intel® Celeron™ processor at a terrific price, plus gateway.net™ internet access* for an entire year. And, if you buy through our You3Ment™ program† you can pay \$1299 or as low as \$37/mo. for 48 months! So call us today and we'll have it built and delivered right to you.

Gateway Essential 400c

- Intel® Celeron™ 400MHz Processor
- 64MB SDRAM
- EV700 28 Screen Plus™ Monitor (15" W x 11" H)
- 8.8GB 4.5in ATA Hard Drive
- 32MB RAM Cache (DDR SDRAM & 17" Display Card)
- SoundBlaster® AudioPCI™ 4402Z
- 48x/24x/16x CD-ROM/Combo Drive
- 56K™ Modem/Full Keyboard
- Mouse/Track Ball
- MultiFunction Keyboard & Mouse
- 1000000™ True3D™ Graphics by 3Dfx® (NVIDIA™ GeForce™ 256)
- Microsoft® Windows™ 98
- Gateway™ You3Ment™ Service
- 1 Year Parts, Labor & On-Site Support**
- 1 Year 24x7 Customer Support
- 1 Year gateway.net™ Internet Access†

\$1299 or as low as \$37/mo. for 48 months!

Great additional:

- 1 Year™ Color Printer – Add \$129

Gateway

Call, click or come
1-800-000-1234
www.gateway.com

NINE LINES OF 4-POINT TYPE:
Rural access \$3.95/hour.

Gateway (consent order)

Negative Options

15-LINE BLOCK OF TEXT:

Subject to credit approval and 1-, 2- and 3-year membership with Prodigy Internet Service. See store for details. To receive instant savings at check out, customer must make any single or multi-product purchase in our store in an amount equal to or exceeding the amount of instant savings between 10/3/99 and 12/31/99, enroll in store in a 1-year, 2-year, or 3-year fixed-term "Prodigy Internet/Office Depot Membership" between 10/3/99 and 12/31/99 with a valid, major credit

The advertisement features a large red arrow pointing to a computer system. The computer system is a tower PC with the following specifications: eTOWER 366i2 WITH INTEL CELERON™ PROCESSOR 366MHz, 32MB SDRAM (up to 256MB), 2.0GB HDD (UDOMA E0K), and 15" LCD Monitor (15" x 15"). The system is priced at \$449.99, with a \$400.00 instant savings offer, resulting in a final price of \$49.99. A 17" Monitor Upgrade is available for only \$99.99. The advertisement also features a section for Brother Fax Machines, with prices ranging from \$129.99 to \$299.99. The text 'Office Depot (consent order)' is visible at the bottom right of the advertisement.

Office Depot (consent order)

**Negative
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... card, accept terms of Prodigy Internet membership, and comply with terms on Prodigy Internet/Office Depot Membership Program. Terms & Conditions available at store. Instant savings of \$400 for a 3-year contract, \$250 for a 2-year contract and \$100 for a 1-year contract. Available only as a credit against purchases on the visit at which membership is approved. No cash payments will be made to customer. Debit cards and Office Depot charge cards not accepted for membership but may be used for purchases of Office Depot merchandise. Payment of



Office Depot (consent order)

Negative Options

... \$19.95 per month is required for the length of your commitment. New Prodigy Internet customers only. Phone charges and premium feature fees not included with Internet service. Cancellation fee equal to instant savings amount plus a penalty fee of \$50 if canceled prior to the end of the contract. See Terms & Conditions in store for additional conditions and restrictions. Your credit worthiness will be established for eligibility. Available in store only. No phone, Internet or special orders.

The advertisement features a large red arrow pointing to a computer system. The computer system includes a tower PC with the following specifications: eTOWER 366i2 WITH INTEL CELERON™ PROCESSOR 366MHz, 32MB SDRAM (up to 256MB), 2.0GB HDD (UDOMA E0K), 16MB Cache, 15.5" LCD Monitor, 16MB PCI Fax/Modem, and a 17" Monitor Upgrade For Only \$99 More. The system is priced at \$449.99, with a \$400.00 instant savings and a \$50.00 instant rebate, resulting in a final price of \$199.99. The advertisement also promotes a Brother Fax Machine with an 'Everyday Low Price' of \$129.99, \$169.99, \$229.99, and \$299.99. The Office Depot logo is visible in the bottom right corner of the advertisement.

Office Depot (consent order)

■ Negative
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**Special
Considerations
for Online
Advertising**

Negative
Options

D ● T C ● M

DISCLOSURES

INFORMATION ABOUT ONLINE ADVERTISING

Federal Trade Commission | Toll-free 1.877.FTC.HELP | For the Consumer | www.ftc.gov

- **SIZE** matters.
- **Color** and **GRAPHICS** can help.
- Be cognizant of variations in:
 - Screen size
 - Operating systems
 - Browsers
 - Default settings



- Use text to prompt consumers.
- Consider sound.
- Avoid pre-checked boxes.
- What about hyperlinks?
 - Place hyperlinks prominently.
 - Label them to signal their importance.
 - Don't be coy: More Info, Legal, or Disclosure won't cut it.
 - Find out if consumers are clicking through.



PLACEMENT & PROXIMITY

- Same concerns about hyperlinks
- Place disclosures close to the triggering claim.
- More clicks = Less comprehension?
- If necessary, encourage scrolling.



Negative
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- ***Dot.Com Disclosures***
- **FTC Deception Statement**
- **FTC caselaw (including settlements)**
- **Policy statements for other industries**
- **Business guidance at www.ftc.gov**