



Office of the Secretary

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

August 14, 2007

Mr. Jason D. Halpern, Esq.  
American Express  
200 Vesey Street, 49<sup>th</sup> Floor  
New York, NY 10285-4901

**Re: *In the Matter of Kmart Corporation, Kmart Services Corporation, and Kmart Promotions, LLC, corporations, FTC File No. 062 3088***

Dear Mr. Halpern:

Thank you for the comments you submitted regarding the above-referenced matter. Your comments were placed on the public record pursuant to Section 2.34 of the Commission's Rules of Practice, 16 C.F.R. § 2.34, and were given serious consideration by the Commission.

Your comments concern disclosure features of the proposed injunctive settlement with Kmart. You suggest that there may be other equally effective methods to communicate the existence of dormancy fees or expiration dates to gift card purchasers and recipients. The provisions in the negotiated order draw on the specific facts of the Kmart case, and are intended to ensure that material gift card disclosures are communicated to consumers prior to purchase in a clear and prominent manner. The specific injunctive provisions contained in the proposed order are not intended to constitute the only way for such material disclosures to be conveyed clearly and prominently. Thus, while the Commission appreciates your comments, it sees no need to alter the provisions in the proposed settlement order, which was designed to provide specific injunctive relief to remedy the particular facts presented by this case.

After considering your comments, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without modification. Respondents will be required to comply with the Order's injunctive and reimbursement provisions, and will be subject to potentially large civil penalties if they violate the Order.

Thank you again for your comments. The Commission is aided in its analysis by hearing from a variety of sources in its work, and it appreciates your interest in this matter.

By direction of the Commission, Commissioners Harbour and Leibowitz concurring in part and dissenting in part.

Donald S. Clark  
Secretary