

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Sharp Electronics Corporation ("Sharp").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Sharp advertises and sells the "Mobilon" line of hand-held personal computers ("HPCs"). Sharp's Mobilon HPCs, as well as similar devices from several other manufacturers, use the Microsoft Windows CE operating system. This operating system and several applications, including a word processor, a spreadsheet, and a database, are installed on these devices' ROM board. HPCs are designed to be upgradeable to newer versions of the operating system and/or applications through the purchase and installation of a new ROM board.

This matter concerns allegedly false and deceptive advertising of Sharp's Mobilon HPCs. The Commission's proposed complaint alleges that Sharp claimed that it would offer to its Mobilon customers an upgrade to a later version of the Microsoft Windows CE operating system when such a later version became available. In fact, Sharp never offered to its Mobilon customers an upgrade to a later version of the Microsoft Windows CE operating system when such a later version became available. Further, the company continued to represent that its Mobilon HPCs were upgradeable for several months after deciding not to offer an upgrade.

The proposed consent order contains provisions designed to prevent Sharp from engaging in similar acts and practices in the future. Part I of the proposed order prohibits the company from misrepresenting the availability of any upgrade product. Part II of the proposed order requires Sharp to offer the promised upgrade to consumers who purchased a Mobilon 4100, 4500, or 4600 handheld PC. Under this provision, Mobilon owners may obtain the upgrade for the payment of a shipping and handling charge of \$10. Parts III through VI of the proposed order are reporting and compliance provisions. Part VII is a provision "sunsetting" the order after twenty years, with certain exceptions.

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