Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of CompUSA Inc., File No. 022 3278

The Federal Trade Commission has accepted an agreement to a proposed consent order with CompUSA Inc. ("CompUSA"). CompUSA is a major retailer of personal computers, computer-related hardware and software products, and other consumer electronics products. CompUSA advertises, labels, offers for sale, sells, and distributes all of these products to the public. The Commission has separately accepted an agreement with the principals of Q.P.S., Inc. ("QPS"), which manufactured computer peripheral products sold by CompUSA.

The proposed consent order has been placed on the public record for thirty (30) days for reception 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.

This matter concerns cash rebate offers that CompUSA advertised to consumers. Among the products that CompUSA marketed were QPS computer peripheral products, as well as CompUSA-labeled computer peripheral products. In marketing these and other products, CompUSA advertised mail-in rebates, which it has funded and which third-party manufacturers, such as QPS, have funded.

The complaint alleges that CompUSA engaged in deceptive and unfair practices relating to both the QPS- funded rebates and the CompUSA-funded rebates. First, the complaint alleges that
CompUSA falsely represented that QPS-funded rebate checks would be mailed to purchasers of advertised QPS products within six to eight weeks, or within a reasonable period of time. Although these rebates were designed and intended to be funded by QPS, CompUSA was involved in their creation, and disseminated advertisements and rebate forms for these rebates. From September 2001 until December 2001, many consumers experienced delays ranging from one to six months in receiving their promised rebates, which ranged from $15 to $100 in value. From January 2002 through July 2002, many consumers experienced similar delays, and thousands of consumers never received their promised rebates from QPS. Despite knowledge of these significant problems, CompUSA continually advertised these QPS rebates until shortly before QPS filed for bankruptcy in August 2002.

Second, the complaint alleges that CompUSA falsely represented that it would deliver CompUSA-funded rebates to purchasers of its computer peripheral products within six to eight weeks, or within a a reasonable period of time. Between September 2001 and June 2002, many consumers experienced delays ranging from one week to more than three months in receiving their promised rebates. The rebates at issue ranged from $3 to $100 in value.

Finally, the complaint alleges that, in the advertising and sale of computer peripheral products, CompUSA offered to deliver rebates within six to eight weeks if they purchased the advertised computer peripheral products and submitted valid rebate requests for CompUSA-funded rebate offers. After receiving rebate requests in conformance with these offers, CompUSA unilaterally extended the time period in which it would deliver the rebates to consumers without consumers agreeing to this extension of time. According to the complaint, this constituted an unfair business practice.

The proposed order contains provisions designed to prevent CompUSA from engaging in similar acts and practices in the future. Part I applies to CompUSA Rebates, which are rebates that are designed and intended to be funded by CompUSA. Specifically, Part I.A. prohibits the company from representing the time in which it will mail any CompUSA Rebate, unless it possesses competent and reliable evidence substantiating the claim. Part I.B. prohibits CompUSA from failing to provide any CompUSA rebate within the time specified, or if no time is specified, within thirty days. Part I.C. requires that the company not "misrepresent, in any manner, expressly or by implication, any material terms of any CompUSA Rebate program."

Part II of the proposed order relates to CompUSA's advertising of Manufacturer Rebates, which are rebates that are designed and intended to be funded by a manufacturer or third party other than CompUSA. This provision prohibits the company from making any representation about the availability of any Manufacturer Rebate unless (1) it has an established record with the manufacturer demonstrating that the manufacturer has consistently paid rebates in a timely manner; or (2) if it does not have such an established record with the manufacturer, CompUSA has conducted a reasonable financial analysis of the manufacturer and that financial analysis demonstrates the manufacturer's ability to timely pay the rebates being offered.

Part III of the proposed order is a redress provision which requires CompUSA to pay all valid rebates requests to consumers who purchased QPS products at CompUSA and whose rebates are due or past due. This provision also requires CompUSA to send a rebate to any eligible QPS purchaser who contacts it or the FTC for a period of seventy-five (75) days after service of the order.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IX 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, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.