

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

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)	
In the Matter of)	
)	
OFFICE DEPOT, INC.,)	DOCKET NO. C-3977
a corporation.)	
)	
_____)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Office Depot, Inc., a corporation ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Office Depot, Inc. is a Delaware corporation with its principal office or place of business at 2200 Old Germantown Road, Delray Beach, Florida 33445.
2. Respondent has advertised, offered for sale, sold, and distributed office products to the public, including personal computers.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
4. Respondent has disseminated or has caused to be disseminated advertisements for a Compaq Presario 5716 computer system, including a computer, a keyboard, a mouse, a 15" monitor, speakers and a color inkjet printer. The advertisements include but are not necessarily limited to the attached Exhibit A. The advertisement contains the following statements:

A.

Office Depot®

Low Prices every day.

Save \$750

1799 ⁹⁷	Computer, Monitor & Printer
- 400 ⁰⁰	Internet Mail-In Rebate††
- 200 ⁰⁰	Price Reduction
- <u>150</u> ⁰⁰	Package Mail-in Rebates*
1049 ⁹⁷	After Rebates & \$200 Price Reduction

COMPAQ

5716 COMPUTER WITH INTEL
PENTIUM III PROCESSOR 450 MHZ

[A fine print disclosure at the bottom of this newspaper ad states:]

“Save \$400 On Any Computer! (When You Sign Up For An Internet Usage Subscription††)

†† CompuServe \$400 Internet Mail-In Rebate offer is subject to credit approval and your acceptance of CompuServe Terms of Service. Access to CompuServe may be limited especially during peak times. Premium services carry surcharges, and communication surcharges may apply to Arkansas and outside the U.S. You may incur telephone charges depending on your calling plan and location. Offer also requires (1) the purchase of a qualifying eMachine PC, any qualifying HP Pavilion 4500 or 8500 series PC (excluding Model 4530), any qualifying Compaq PC AND Compaq monitor, any qualifying Compaq notebook computer or any IBM Thinkpad, (2) a contract commitment to a 3-year/36-month subscription for CompuServe 2000 Internet Service at a monthly rate of \$21.95, (3) a completed mail-in rebate form, (4) a purchase receipt, and (5) a major credit card. All of the above must be completed and received by CompuServe within 30 days of purchase. Consumers without a valid credit card may pre-pay for 36 months at \$21.95 per month. Within 45 days of credit approval, the \$400 CompuServe Internet Service rebate will be credited to your designated credit card or fulfilled by check sent to the name and address provided on the credit application. Early termination of the 3-year CompuServe 2000 Internet Service requires repayment of the \$400 rebate plus a \$50 cancellation fee. IBM Thinkpad/ CompuServe \$400 Internet Rebate offer expires 9/30/99. HP/CompuServe \$400 Internet Rebate offer expires 9/30/99. Compaq/ CompuServe \$400 Internet Rebate offer expires 9/30/99. eMachine CompuServe \$400 Internet Rebate offer expires 10/31/99. Age 18 or older. Limit one per household or business. See store for details. CompuServe provides various pricing plans, some of which may be lower than the \$21.95 monthly rate required for this promotion. CompuServe is a trademark of CompuServe Interactive Services Inc.”

5. Through the means described in Paragraph 4, including but not necessarily limited to Exhibit A, respondent has represented, expressly or by implication, that the total cost of a Compaq Presario 5716 computer system is \$1,049.97.

6. In truth and in fact, the total cost of a Compaq Presario 5716 computer system is not \$1,049.97. In order to obtain the Compaq Presario 5716 computer system for \$1,049.97, consumers are required to subscribe to CompuServe Internet Service for 36 months at an additional cost of \$21.95 per month or a full pre-payment of \$790.20. Therefore, the representation set forth in Paragraph 5 was, and is, false or misleading.

7. In its advertisements, including but not necessarily limited to Exhibit A, respondent has represented that the total cost of a Compaq Presario 5716 computer system is \$1,049.97. In these advertisements, respondent has failed to disclose or failed to disclose adequately that (a) in order to obtain the Compaq Presario 5716 computer system for \$1,049.97, consumers are required to subscribe to CompuServe Internet Service for 36 months at an additional cost of \$21.95 per month or a full pre-payment of \$790.20; (b) consumers who cancel the Internet service within 3 years must repay the entire \$400 rebate and pay a \$50 cancellation fee; and (c) CompuServe does not provide local access telephone numbers for its Internet service in all areas, and therefore many consumers must either pay long distance telephone charges or surcharges of \$6.00 per hour to access its Internet service. These facts would be material to consumers in their purchase or use of the product. The failure to disclose these facts, in light of the representation made, was, and is, a deceptive practice.

8. Respondent has disseminated or has caused to be disseminated advertisements for a “free” emachines computer. The advertisements include but are not necessarily limited to the attached Exhibit B. The advertisement contains the following statements:

B.

Office Depot®
Low Prices every day.

Free emachines Computer After Rebates
When You Sign Up For 3 Years of Prodigy Internet Service*

emachines

Save \$450⁰⁰

17" Monitor

\$449⁹⁹ Computer Only

Upgrade for

eTOWER 366i2 WITH INTEL®

-\$400⁰⁰ Prodigy Internet Rebate*

Only \$60 More

CELERON™ PROCESSOR 366MHz- \$50⁰⁰ eTower Mail-in Rebate

FREE Your Final Price

After Rebates

eView 15" Monitor 812-866.....139.99

- 13.8" Viewable Image Area

[Depiction: An *emachines* computer tower, keyboard, speaker, and monitor. The words “FREE Computer After Rebates” are super-imposed over the picture of the monitor.]

eView 17" Monitor 953-605.....199.99

- 15.8" Viewable Image Area

[A fine print disclosure in the corner of this ad states:

“Subject to credit approval and 1-, 2-, 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 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 \$19.95 per month is required for the length of your commitment. New Prodigy Internet customers only. 18 years of age and older. 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 creditworthiness will be established for eligibility. Available in store only. No phone, Internet or special orders. Limit one per household.”]

9. Through the means described in Paragraph 8, including but not necessarily limited to Exhibit B, respondent has represented, expressly or by implication, that the “free” *emachines* computer includes a monitor at no additional cost.

10. In truth and in fact, the “free” *emachines* computer does not include a monitor at no additional cost. Consumers must pay \$139.99 for a 15" monitor or \$199.99 for a 17" monitor. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.

11. Through the means described in Paragraph 8, including but not necessarily limited to Exhibit B, respondent has represented, expressly or by implication, that consumers can obtain the “free” *emachines* computer at no cost, after rebates.

12. In truth and in fact, consumers cannot obtain the “free” *emachines* computer at no cost, after rebates. In order to obtain the “free” *emachines* computer, consumers are required to subscribe to Prodigy Internet Service for 36 months at a cost of \$19.95 per month or a full pre-

payment of \$718.20. Therefore, the representation set forth in Paragraph 11 was, and is, false or misleading.

13. In its advertisements, including but not necessarily limited to Exhibit B, respondent has represented that consumers can obtain the “free” emachines computer at no cost, after rebates. In these advertisements, respondent has failed to disclose or failed to disclose adequately that (a) in order to obtain the “free” emachines computer, consumers are required to subscribe to Prodigy Internet Service for 36 months at a cost of \$19.95 per month or a full pre-payment of \$718.20; (b) consumers who cancel the Internet service within 3 years must repay the entire \$400 rebate and pay a \$50 cancellation fee; and (c) Prodigy does not provide local access telephone numbers for its Internet service in all areas, and therefore many consumers must either pay long distance telephone charges or surcharges of \$6.00 per hour to access its Internet service. These facts would be material to consumers in their purchase or use of the product. The failure to disclose these facts, in light of the representation made, was, and is, a deceptive practice.

14. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this fifth day of September, 2000, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

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