

FEDERAL TRADE COMMISSION

[File No. 012 3015]

Stoker, Inc.; Analysis to Aid Public Comment**AGENCY:** Federal Trade Commission.**ACTION:** Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 21, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael Ostheimer, FTC/S-4002, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326-2699.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 19, 2001) on the World Wide Web, at <http://www.ftc.gov/os/2001/04/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and

copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

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 Stoker, Inc. ("Stoker").

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.

This matter involves respondent's manufacturing, packaging, importing, and advertising of smokeless tobacco products. These activities are subject to the Comprehensive Smokeless Tobacco Health Education Act of 1986, 15 U.S.C. 4401, *et seq.* ("Smokeless Tobacco Act"), and the regulations promulgated pursuant thereto, 16 CFR 307, *et seq.* ("regulations"). The Smokeless Tobacco Act and the regulations require that smokeless tobacco product packages and advertisements bear specified health warnings. The FTC complaint alleges that Stoker failed to comply with those requirements in several respects.

First, the complaint alleges that certain of Stoker's smokeless tobacco products did not bear the health warning statements in conspicuous and legible type, in violation of the Smokeless Tobacco Act and the regulations. According to the FTC complaint, these products include sixteen ounce packages of smokeless tobacco that had the health warning statements printed in 5 point type.

The complaint also alleges that certain of Stoker's smokeless tobacco products violated the Act and the regulations because they did not bear the health warning statements in a conspicuous and prominent place on the package, in violation of the Smokeless Tobacco Act and the regulations. The complaint contends that one such product is distributed in a package that functions as a retail dispenser of individual packages. The health warning is on the top rear of the dispenser, but when the dispenser is opened and displayed as intended, the health warning is not visible to the public from the dispenser's normal viewing position.

Furthermore, the complaint alleges that certain of Stoker's smokeless

tobacco advertising did not bear the health warning statements in conspicuous and legible type and within the correct size circle and arrow format. According to the complaint, one such advertisement had a display area measuring 20¼ square inches and had the health warning statement printed in 4½ point type and appearing within a one-half inch diameter circle.

Finally, the complaint alleges that since 1987, Stoker has manufactured, packaged, or imported smokeless tobacco products without submitting a plan to the FTC specifying the method it would use to rotate, display, and distribute the health warning statements on its packages and advertisements, in violation of the Act and the regulations.

Violations of the Smokeless Tobacco Act and the regulations also constitute violations of section 5 of the FTC Act.

The proposed consent order is designed to prevent Stoker from engaging in similar acts and practices in the future. Part I of the proposed order prohibits respondent from violating any provision of the Smokeless Tobacco Act or the regulations.

Parts II through V of the order require Stoker to keep copies of relevant packaging and advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file compliance reports with the Commission. Part VI provides that the order will terminate after twenty (20) years under certain circumstances.

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.

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 01-10349 Filed 4-25-01; 8:45 am]

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FEDERAL TRADE COMMISSION

[File No. 002 3003]

Voice Media Incorporated, et al.; Analysis to Aid Public Comment**AGENCY:** Federal Trade Commission.**ACTION:** Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the

complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before May 17, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker, Federal Trade Commission, Midwest Regional Office, 55 E. Monroe St., Suite 1860, Chicago IL 60603-5701, (312) 960-5634.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for April 17, 2001), on the World Wide Web, at <http://www.ftc.gov/os/2001/04/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

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 Voice Media Incorporated and its two officers and owners, Ron Levi and Paul Lesser (the "respondents").

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.

The respondents own and operate several adult entertainment web sites. They sell paid memberships to their sites, and promote them by periodically offering "free" trial memberships. This matters concerns allegedly false and deceptive representations about those trial memberships. The Commission's proposed compliant alleges that the respondents falsely claimed that they would not charge membership fees to consumers who canceled their trial memberships within seven days of providing credit card information and agreeing to participate in the free trial membership offers. In fact, in numerous instances, the respondents charged monthly membership fees to consumers who canceled within seven days of agreeing to participate in the trial membership offers.

The complaint also alleges that the respondents failed to disclose clearly and conspicuously: (a) That they immediately charge consumers' credit or debit cards for one month's membership fee effective as of the date that the consumers first provide credit or debit card information and agree to participate in the free trial membership offers; and (b) that they treat consumers' submissions of credit or debit card information as authorization to bill consumers' credit or debit accounts.

Part I of the proposed order prohibits the respondents from making any false or misleading representation of material fact, or omission of material information in connection with the advertising, promotion, offering for sale, or sale of any goods or services via the Internet, including, but not limited to, false or misleading representations: (a) That they will not charge consumers for goods or services during any free-trial period, (b) that their goods or services are "free," "without risk," "without charge," or words or similar import denoting or implying the absence of any obligation on the part of the recipient of such offer to pay for the goods or services; and (c) that a request for a consumer's credit or debit card number is for age verification only.

Part II of the proposed order prohibits the respondents from requesting any payment information, other than for purposes of age verification, from any consumer before ensuring that the consumer has received notice of each of

the following material terms and conditions: (a) The applicable membership cost and the length of any free or trial membership; (b) the way in which a consumer may cancel, including any limitation on the time period during which a consumer must cancel in order to avoid charges; (c) a telephone number, facsimile number, and e-mail address where consumers can contact the Proposed Respondents; and (d) access to the complete terms and conditions of the respondents' offer.

Part III of the proposed order prohibits the respondents from: (a) Billing any consumer who has not agreed to purchase goods or services; and (b) billing any consumer after the expiration of any free or trial offer without having first clearly and conspicuously posted notice of the expiration of the offer or provided access to that information by means of a clear and conspicuous hyperlink on their log-in page.

Part IV of the proposed order prohibits the respondents from: (a) Unilaterally changing any terms or conditions of their offer in a way that would increase the consumer's financial obligations; or (b) materially altering the cancellation or refund procedures or terms, without first providing a consumer with fifteen (15) days notice and an opportunity to cancel. The notice must be made clearly and conspicuously.

Parts VI through IX of the proposed order are reporting and compliance provisions. Part X is a provision "sun setting" 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.

By direction of the Commission.

Donald S. Clark,
Secretary.

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GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR) Revision of SF 533, Medical Record—Prenatal and Pregnancy

AGENCY: General Services
Administration.

ACTION: Notice.

SUMMARY: The General Services
Administration/ICMR revised the SF