



**BILLING CODE: 6750-01S**

**FEDERAL TRADE COMMISSION**

**[File No. 172 3028]**

**UrthBox, Inc. and Behnam Behrouzi; Analysis of Proposed Consent Order 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. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint 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 **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write: "Urthbox, Inc." on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the

Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D),  
Washington, DC 20024.

**FOR FURTHER INFORMATION CONTACT:** Kerry O'Brien (415-848-5100),  
Western Region, Federal Trade Commission, 901 Market Street, Suite 570, San  
Francisco, California 94103.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade  
Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 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, subject to final approval, by the Commission,  
has been placed on the public record for a period of thirty (30) days. The following  
Analysis of Proposed Consent Order 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 3, 2019), on the World Wide Web, at [https://www.ftc.gov/news-  
events/commission-actions](https://www.ftc.gov/news-events/commission-actions).

You can file a comment online or on paper. For the Commission to consider your  
comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER  
PUBLICATION IN THE *FEDERAL REGISTER*]. Write "Urthbox, Inc.; File No.  
1723028" on your comment. Your comment - including your name and your state - will  
be placed on the public record of this proceeding, including, to the extent practicable, on  
the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “Urthbox, Inc.; File No. 1723028” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC Website at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively

sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.



## **Analysis of Proposed Consent Order to Aid Public Comment**

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order as to UrthBox, Inc. (“UrthBox”) and Benham Behrouzi (“respondents”).

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

This matter involves respondents’ endorsement and marketing practices relating to UrthBox’s snack box subscription service. UrthBox has offered consumers monthly subscriptions (one-, three-, and six-month subscriptions) to receive its snack boxes. Urthbox has required its customer to pre-pay the entire cost of the subscription term.

The complaint alleges that respondents violated Section 5(a) of the FTC Act by misrepresenting that positive customer reviews of UrthBox and its snack boxes on the Better Business Bureau’s website and other third-party websites reflected the independent experiences or opinions of impartial customers, and by deceptively failing to disclose that some of those customers received compensation, including free snack boxes, to post those positive reviews. The complaint also alleges that respondents violated Section 5(a) of the FTC Act and Section 4 of the Restore Online Shoppers Confidence Act (“ROSCA”) by failing to adequately disclose key terms of its “free” snack box offer to prospective customers. Specifically, when the free trial period expired, UrthBox would automatically enroll consumers in a six-month subscription plan and would charge them

the total amount owed for six months of shipments of snack boxes. The complaint also alleges that respondents violated ROSCA by failing to obtain consumers' express informed consent prior to charging them for that ongoing subscription.

The order includes injunctive relief that prohibits these alleged violations and fences in similar and related conduct.

Part I prohibits misrepresenting an endorser of any good or service as an independent user or ordinary consumer of the good or service.

Part II prohibits respondents from making misrepresentations in connection with the marketing or sale of any good or service with a negative option feature. The order defines the term "Negative Option Feature."

Part III prohibits any representation about any consumer, reviewer, or other endorser of any good or service without disclosing, clearly and conspicuously, and in close proximity to that representation, any unexpected material connection between such endorser and (1) any respondent, (2) any other individual or entity affiliated with the good or service, or (3) the good or service. The order defines the terms "Clearly and Conspicuously" and "Unexpected Material Connection."

Part IV requires respondents to take all reasonable steps to remove any demonstration, review, or endorsement, by any endorser with a material connection to any respondent, of any good or service currently viewable by the public that does not comply with Provisions I and III.

Part V requires respondents, when they use endorsers to advertise or sell a good or service, to take certain steps to make sure the endorsements comply with Parts I and III of the order. Such steps include clearly notifying endorsers of their representation and

disclosure responsibilities and creating a monitoring system to review endorsements and disclosures.

Part VI requires respondents to make certain disclosures when they market or sell any good or service with a negative option feature.

Part VII prohibits respondents from using billing information to obtain payment for a good or service with a negative option feature without first obtaining the consumer's express informed consent to do so. The order describes the steps respondents must take to obtain that expressed informed consent and also defines the term "Billing Information."

Part VIII requires respondents to provide consumers with a simple mechanism to avoid charges for a good or service with a negative option feature. The order describes what constitutes a simple mechanism, including that such mechanism must not be difficult, costly, confusing, or time consuming, and must be at least as simple as the mechanism the consumer used to initiate the charge.

Parts IX and X require the corporate respondent, UrthBox, Inc., to pay \$100,000 to the Commission, which the Commission will use to administer a fund for relief, including consumer redress unless direct redress to consumers is impracticable.

Part XI requires respondents to provide customer information to the Commission so that it may efficiently administer consumer redress.

Parts XII to XVI are reporting and compliance provisions. Part XII requires respondents to distribute the order to certain persons and submit signed acknowledgments of order receipt. Part XIII requires respondents to file compliance reports with the Commission, and to notify the Commission of bankruptcy filings or changes in corporate structure that might affect compliance obligations. Part XIV contains recordkeeping



requirements for personnel records, advertising and marketing materials, and all records necessary to demonstrate compliance with the order. Part XV contains other requirements related to the Commission's monitoring of the respondents' order compliance. Part XVI provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order's terms in any way.

By direction of the Commission.

April J. Tabor,  
Acting Secretary.

[FR Doc. 2019-06956 Filed: 4/8/2019 8:45 am; Publication Date: 4/9/2019]