



FEDERAL TRADE COMMISSION

[File No. 242 3055]

Publishing.com, LLC, Christian Mikkelsen, and Rasmus Mikkelsen; Analysis of Proposed Consent Order to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

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 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 DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Please write “Publishing.com; File No. 242 3055” 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, please mail your comment to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave. NW, Mail Stop H-144 (Annex P), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Emily Cope Burton (phone: 415-848-5111), Assistant Regional Director, Western Region, Federal Trade Commission, 90 7th St., Suite 14-300, San Francisco, CA 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 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 at <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 DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Write “Publishing.com; File No. 242 3055” 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.

We encourage you to submit comments through the <https://www.regulations.gov> website. Postal mail addressed to the Commission will be subject to delay because of heightened security screening. If you prefer to file your comment on paper, write “Publishing.com; File No. 242 3055” on your comment and on the envelope, and send it via overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex P), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include 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 your comment does not include 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 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 <https://www.regulations.gov> website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that 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 <https://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws 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 it receives on or before **[INSERT DATE 30 DAYS AFTER DATE OF 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 Consent Order (“Consent Agreement”) with Publishing.com, LLC, Christian Mikkelsen, and Rasmus Mikkelsen (collectively, “Respondents”). The proposed Decision and Order (“Order”), included in the Consent Agreement and subject to final Commission approval, is designed to remedy Respondents’ deceptive practices in connection with marketing their self-publishing programs.

The proposed Order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement, and the comments received, and will decide whether it should withdraw from the Consent Agreement and take appropriate action or make the proposed Order final.

The complaint alleges that Respondents violated section 5 of the FTC Act, 15 U.S.C. 45, by making false or unsubstantiated earnings claims about their self-publishing programs. The complaint further alleges that Respondents violated section 5 of the FTC Act by misrepresenting its refund policy as a simple money-back guarantee for 12 months. Finally, the complaint alleges that Respondents falsely represented that consumer reviews and testimonials for their programs represented the actual, genuine experiences and opinions of ordinary and impartial purchasers.

The proposed Order contains provisions designed to prevent Respondents from engaging in these and similar acts and practices in the future. Provision I of the proposed Order permanently restrains and enjoins Respondents from making earnings claims or assisting others in making earnings claims unless those claims are non-misleading and Respondents have a reasonable basis for them. Provision II prohibits Respondents from making the specific misrepresentations alleged in the complaint and misrepresentations concerning any other material fact in the sale of any product or service. Provision III

prohibits Respondents from misrepresenting or failing to disclose material terms and conditions of any cancellation or refund policy or failing to promptly honor a consumer's cancellation or refund request in compliance with company policies in effect at the time of the consumer's purchase. Provision IV prohibits Respondents from making certain misrepresentations regarding testimonials and endorsements.

Provision V requires Respondents to disclose any unexpected material connections with endorsers or reviewers and any payments or incentives for posting reviews. Provision VI requires Respondents to pay \$1.5 million in monetary relief and Provision VII details additional monetary provisions necessary to ensure receipt of the monetary relief. Provision VIII requires Respondents to provide the Commission with sufficient information about its customers so that the Commission can efficiently administer redress, if possible.

Provisions IX through XIII relate to notice and compliance. Provision IX requires Respondents to acknowledge receipt of the Order; distribute the Order to principals, officers, and certain employees and agents; and obtain signed acknowledgements from them. Provision X requires Respondents to submit compliance reports to the Commission one year after the Order's issuance and when certain events occur. Provision XI requires Respondents to create certain records for 15 years and retain them for five years thereafter. Provision XII requires Respondents to provide information or documents necessary to monitor compliance with the Order during the period of the Order's effective dates. Provision XIII 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 Consent Agreement and proposed Order to aid the Commission in determining whether it should make the proposed Order final. This analysis is not an official interpretation of the proposed Order and does not modify its terms in any way.

By direction of the Commission.

April J. Tabor,

Secretary.

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