

Apple to Pay at Least \$32.5 Million in Refunds for Unauthorized In-App Purchases

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Today, the Federal Trade Commission (“FTC” or “Commission”) announced a [settlement](#) with technology giant Apple Inc., which will require the company to pay at least \$32.5 million in refunds to consumers that the Commission alleges were billed for unauthorized in-app charges incurred by children playing popular mobile games. The Commission approved the proposed consent order by a vote of 3-1, with Commissioner Wright [dissenting](#) due to the “miniscule percentage of [Apple] consumers” affected by the company’s billing practices.

In particular, the [complaint](#) alleges that Apple engaged in unfair practices by: (1) failing to inform parents that iTunes stores a password for 15 minutes after it is entered; (2) labeling apps in its App Store as “FREE” and only disclosing that the app offers in-app purchases in small print and on a separate information page; (3) failing to explain what an “in-app purchase” is before or during downloading; and (4) failing to disclose any information about in-app charges when consumers are prompted to “buy” and then to input their password during game play. Through these practices, the Commission claims that Apple failed to give parents sufficient information for them to give informed consent to the charges their children incurred. The FTC notes that Apple revised its order process in September 2013, so that consumers were prompted to enter their iTunes password prior to choosing to “buy” within the app. However, iTunes passwords were still stored for 15 minutes, and neither the password prompt nor the “buy” prompt explained that consumers would incur charges. Under the terms of the order, Apple is prohibited from billing a consumer for an in-app charge without having obtained prior express, affirmative consent.

This settlement is in addition to a class action settlement that Apple entered into resolving the same issues, and a good illustration that a class action may not mean finality if the FTC remains concerned about the conduct or issue. Additionally, while this complaint focused on the in-app billing process, which Apple controls, the Commission can – and likely will – pursue enforcement against app developers for the alleged failure to adequately disclose in-app purchases. Therefore, app developers should ensure that a consumer is clearly notified that the purchase of virtual game currency will result in charges.

Click [here](#) to view our client advisory on the settlement.