

FTC Delivers \$2 Million Reminder About the Mail Order Rule

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Yesterday, the FTC announced a court order requiring GOAT – an online marketplace for sneakers, apparel, and accessories – to pay more than \$2 million for violating the Mail Order Rule, which requires companies to have reasonable shipping practices. The FTC’s complaint also alleged that GOAT offered an “Assurance of Authenticity” and “Buyer Protection” for consumers that received deficient products but that the company did not put a system in place to honor its policies.

GOAT makes representations about how fast it will ship items and offers consumers the opportunity to pay a premium for the faster processing and shipping times. The FTC alleges that the company frequently failed to ship within the promised times. For example, GOAT allegedly shipped 37% of all “Instant” orders and more than 16% of all “Next Day” orders later than it promised, despite consumers paying between \$14.50 and \$25 in shipping upgrade charges.

The Mail Order Rule generally requires companies to have a reasonable basis for any shipping representations they make. If a company can’t ship within the time promised – or within 30 days, if it didn’t promise a specific time – the company must notify customers and give them the option to cancel an order and obtain a full refund. The Rule describes what must be included in the first delay notice and any subsequent notices. The FTC alleged that GOAT failed to meet these requirements.

In addition to the Mail Order Rule violations, the FTC alleged that, despite GOAT’s “Assurance of Authenticity” and “Buyer Protection Policy,” the company misrepresented that it would provide full refunds to buyers who requested to return products that are inauthentic, incorrect, or otherwise not as described. Instead, GOAT rejected many of the requests and gave only partial refunds or in-store credits in response to others. The FTC also alleged that GOAT made it difficult for consumers to use this process.

Under the proposed settlement, GOAT will be required to pay over \$2 million to provide refunds to consumers affected by the company’s shipping practices. In addition, GOAT will be prohibited from making misrepresentations about the relief it will provide to consumers who receive deficient products. The company will also be required to implement certain customer service practices whenever it advertises that it will provide special protection for certain products.

There are at least two lessons to learn from this settlement. First, you should comply with the Mail Order Rule and the policies that you advertise to consumers. Second, you should pay attention to customer complaints. According to the FTC, many of GOAT’s customers complained to the company, including through its website, app, email, and social media accounts. Big FTC investigations rarely come without warning signs. If you pay attention to those signs, you may be able to stop problems before they escalate.