Two Settlements Require Companies to Issue Refunds

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This week, two state attorneys general announced settlements that require companies to issue refunds to consumers.

On Tuesday, the Washington AG announced a settlement with a software company over deceptive marketing techniques. Among other things, the AG alleged the company misrepresented that consumers' computers were at risk, added products to orders during the checkout process unless consumers opted-out, failed to clearly disclose that consumers would be automatically billed each year unless they cancel, and made it difficult for consumers to cancel or obtain refunds. As part of the settlement, the company agreed to pay refunds to an estimated 5,500 consumers. In addition, the company must pay a $20,000 civil penalty, plus $58,000 to reimburse the AG's office for fees and legal costs. An additional $150,000 in civil penalties were suspended provided the company complies with the settlement.

On Thursday, the Florida AG announced a settlement with a company that sells various dietary aids, nutritional supplements, and other products online. The investigation started in December 2009 when consumers complained they were billed for products they did not order. According to the AG, the company failed to clearly disclose that consumers who signed up for a trial offer would be enrolled in a program in which the consumers would be charged monthly, unless they cancel. The company has already reimbursed approximately $3 million to consumers. As part of the settlement, additional refunds will be offered to Florida consumers. In addition, the company will pay approximately $51,000 to the AG's office for attorneys' fees and costs and for future investigation and enforcement.

These settlements serve as a reminder that marketers need to accurately describe their offers and clearly disclose the terms of any free trials. The settlements also demonstrate that the costs of failing to comply with advertising laws can be significant, and can include a requirement that violators pay penalties and give up their profits by issuing refunds.