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**[BILLING CODE: 6750-01S]**

**FEDERAL TRADE COMMISSION**

**[File No. 132 3285]**

**National Payment Network, Inc.**

**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 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 April 27, 2015.

**ADDRESSES:** Interested parties may file a comment at

<https://ftcpublic.commentworks.com/ftc/natpaynetconsent> online or on paper, by following the

instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION**

section below. Write “National Payment Network, Inc. - Consent Agreement; File No. 132

3285” on your comment and file your comment online at

<https://ftcpublic.commentworks.com/ftc/natpaynetconsent> by following the instructions on the

web-based form. If you prefer to file your comment on paper, write “National Payment

Network, Inc. - Consent Agreement; File No. 132 3285” 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.

**FOR FURTHER INFORMATION CONTACT:** Daniel Dwyer, Bureau of Consumer Protection, (202) 326-2957, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

**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 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 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 March 26, 2015), on the World Wide Web at: <http://www.ftc.gov/os/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 27, 2015. Write “National Payment Network, Inc. - Consent Agreement; File No. 132 3285” 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 public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’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, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential,” as discussed in 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). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>1</sup> Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

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. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/natpaynetconsent> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov/#!home>, you also may file a comment through that website.

If you file your comment on paper, write “National Payment Network, Inc. - Consent Agreement; File No. 132 3285” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania

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<sup>1</sup> 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), 16 CFR 4.9(c).

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.

Visit the Commission 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 April 27, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

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

The Federal Trade Commission ("FTC") has accepted, subject to final approval, an agreement containing a consent order from National Payment Network, Inc., also known as NPN, Inc. The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the FTC will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The respondent is a company that offers an auto payment program to consumers financing a motor vehicle. The matter involves its advertising of the auto payment program to consumers. According to the FTC complaint, respondent has represented that consumers who enroll in its biweekly payment program in order to pay off their auto-financing contract will save money, often including a specific amount of savings in interest. Respondent failed to disclose, however, that it charged fees that in many cases offset any savings under the program, and also

failed to disclose the total amount of these fees. These facts would be material to consumers in their decision to enroll in respondent's biweekly payment program. The complaint alleges therefore that respondent's failure to disclose the above-mentioned facts is a deceptive practice in violation of section 5 of the FTC Act.

The proposed order is designed to prevent respondent from engaging in similar deceptive practices in the future. Section I prohibits respondent from representing that a payment program or add-on product or service will save consumers money, including interest, unless the amount of savings is greater than the total amount of fees associated with the product or service or any qualifying information is clearly and conspicuously disclosed. Section I also prohibits respondent from representing that a payment program or add-on product or service will save any consumer a specific amount of money, including interest, unless the specified amount is the amount of savings after deducting any fees or any qualifying information relating to savings is clearly and conspicuously disclosed.

Section II of the proposed order prohibits respondent from making misrepresentations related to any payment programs, including regarding the existence, amount, timing, or manner of any fees, the program's benefits, performance, or efficacy, or the ability of any payment program to affect consumer credit.

Section III of the proposed order prohibits respondent from making misrepresentations related to any add-on products or services, including regarding the total costs of the add-on and the benefits, performance, or efficacy of the add-on, any restrictions or conditions associated with the add-on, the nature or terms of any refund, cancellation, or exchange of an add-on and that any add-on product can improve, repair or otherwise affect a consumer's credit.

Section IV requires respondent to substantiate any representations about the benefits, performance or efficacy of any add-on product or service or any payment program.

Section V prohibits respondent from collecting cancellation fees from consumers who have finished paying off their financing contract through NPN's Plan.

Section VI of the proposed order requires respondent to pay consumers two million four hundred and seventy-five thousand dollars (\$2,475,000.00) in monetary relief. The proposed order permits respondent to pay the monetary relief amount by: (1) refunding customers a total of \$1,526,000.00 within thirty days of service of the order; (2) waiving an additional \$949,000.00 in fees for current customers. If respondent is unable to provide refunds or fee waivers in the stated amount, it must remit the balance to the Commission.

Section VII of the proposed order requires respondent to keep copies of relevant advertisements and materials substantiating claims made in the advertisements. Section VIII requires that respondent provide copies of the order to certain of its personnel. Section IX requires notification of the Commission regarding changes in corporate structure that might affect compliance obligations under the order. Section X requires the respondent to file compliance reports with the Commission. Finally, section XI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

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

By direction of the Commission.

Donald S. Clark,  
Secretary.

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