

Major Companies Receive FTC Warranty Warnings

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by Kaleb McNeely



In a wake-up call to businesses that offer non-compliant consumer warranties, last week the Federal Trade Commission announced that its staff had sent warning letters to six major companies that market and sell automobiles, cellular devices and video gaming systems. According to the FTC, the letters express concerns that the companies' warranties may be prohibited by the Magnuson-Moss Warranty Act (which governs consumer product warranties) and the FTC Act because they "tie warranty coverage to the use of

particular products or services."

The Magnuson-Moss Warranty Act provides in part that:

No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using, in connection with such product, any article or service (other than article or service provided without charge under the terms of the warranty) which is identified by brand, trade, or corporate name. 15 U.S.C. § 2302(c).

In addition to the exception for articles or services "provided without charge," a company may apply for a waiver from the FTC if: (1) "the warranted product will function properly only if the article or service so identified is used in connection with the warranted product, and (2) the Commission finds that such a waiver is in the public interest." 15 U.S.C. §

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2302(c).

The FTC staff determined that the following examples from the six companies' warranties were problematic in light of 15 U.S.C. § 2302(c):

- The use of [the company's parts] is required to keep your . . . manufacturer's warranties and any extended warranties intact.
- This warranty shall not apply if this product . . . is used with products not sold or licensed by [company name].
- This warranty does not apply if this product . . . had had the warranty seal on the [product] altered, defaced, or removed.

The FTC Staff directed the six companies to review their warranty provisions and revise them if necessary, and informed the companies that the FTC Staff would be reviewing their written warranties and promotional materials after 30 days.

Businesses that offer warranties covering consumer products would be well-advised to take a fresh look at their warranties. If those warranties are tied to use of a particular product or service, they may run afoul of the Magnuson-Moss Warranty Act unless the product or service is offered for free or the company has obtained a waiver from the FTC.