

# NEWS

## ■ CONSUMER LAW

# Stalled rebates trigger litigation, legislation

Legal action over delays, deception increase; states move to regulate.

By Tresa Baldas  
STAFF REPORTER

CONSUMERS FED UP with waiting for mail-in rebates to arrive are triggering a wave of lawsuits and legislation aimed at making it easier for them to get their promised cash in a timely manner.

Currently, seven states—Alabama, California, Florida, Massachusetts, Missouri, New Jersey and New York—have bills pending that would mandate that rebates be offered in a timely manner, some of them requiring that discounts be offered on the spot at the checkout lane, rather than making consumers mail in coupons and fill out forms.

Rhode Island passed such an instant-rebate law last year. Similar measures are proposed in Massachusetts and New Jersey.

In California, a federal judge last month allowed a rebate lawsuit to proceed against AT&T Mobility LLC (formerly Cingular Wireless), which was accused of misleading consumers into believing they would receive a cash rebate instead of the Visa Reward cards actually received. *Faigman v. AT&T Mobility*, No. C06-04622 MHP (N.D. Calif.).

In California, a settlement was reached in June in a class action on behalf of consumers who bought computer-related products from Soyo Inc. and claim the company did not honor mail-in rebates of \$30 to \$50. *Lewis v. Soyo Group Inc.*, No. ED CV 06-699 (C.D. Calif.).

And in Washington, online mobile phone dealer InPhonic Inc. in November 2006 settled a lawsuit for \$3.8 million on behalf of consumers who had filed more than 2,000 complaints about the difficulty of getting InPhonic to honor its rebate offers. *D.C. v. InPhonic Inc.*, No. 4390-06 (D.C. Super. Ct.).

### Dollars and sense

Consumer rights attorneys note that as rebate offers have increased in popularity among businesses, so have complaints about delayed payments.

"I've been getting more and more calls on that in recent years," said consumer rights attorney Thomas A. Zimmerman, of Zimmerman Law Offices in Chicago.

"I think there needs to be more regulation in that area because it doesn't make sense, financially, for an individual to incur the costs associated with litigation to pursue a rebate, which in fact may

total less than the fee that you have to pay the clerk to file the case—and companies know this."

But some consumers are willing to pay the legal fees to set a company straight. Zimmerman noted, citing a recent rebate lawsuit he settled with Best Buy Co. Inc. The case started with one individual complaining about an unpaid \$150 rebate from a computer sale, he said. Several more complaints surfaced during discovery, but the case ended up settling in 2005. *Rakowski v. Best Buy Stores*, No. 03CH15297 (Cook Co., Ill., Cir. Ct.).

"We certainly see a number of irregularities with the administration of rebate programs and we expect to see more in the future because of its popularity as a marketing tool," said T. Christopher Tuck of Richardson, Patrick, Westbrook & Brickman in Mount Pleasant, S.C.

Tuck represented plaintiffs in the class action against Soyo Inc., which in June agreed to honor the full rebate to any consumer who did not receive one.

Tuck said that, too often, companies offer rebates—which lure people away from competitors—knowing that only a certain percentage of people will actually redeem the coupon.

Or, they count on people making mistakes on the form so they can deny the rebate later.

"The addition of more laws on this can only benefit the consumer," Tuck said.

But most manufacturers and retailers that offer rebates are already following state laws, countered Liisa Thomas, an advertising attorney at Winston & Strawn

in Chicago who helps companies create rebate ads.

"Certainly, I've seen an uptick in questions about rebates. People are asking a lot more questions about, 'How do we do them? This is our rebate policy, can you take a look at it?'" Thomas said. "If they've thought about how to advertise it properly, one would presume they want to know how to award it properly."

She added, "companies don't intend to violate the laws. They just might not be aware they may exist."

According to Thomas, 12 states currently have laws specific to mail-in rebates. Three of them—New Jersey, North Carolina and Texas—passed their rebate laws in the last year.

The laws vary from state to state. For example, Texas requires a company to mail the rebate within the time promised in the offer, or, if there is no time, within 30 days. North Carolina's rebate law says that customers must get paid within 60 days. Rhode Island says rebates advertising a lower price must be honored on the spot. ■



T. CHRISTOPHER TUCK:  
*The addition of more laws on rebates will benefit the consumer.*