

Tuesday, April 18, 2006

SPRINT/NEXTEL AGREES TO PAY NEARLY \$300,000 TO SETTLE CITY'S LAWSUIT FOR DECEPTIVE ADVERTISING

Agreement Marks Final Settlement with Major Wireless Companies; DCA Action Secures Compliance and \$555,000 in Total Payments

New York, N.Y. -- New York City Department of Consumer Affairs (DCA) Commissioner Jonathan Mintz today announced that Sprint/Nextel Communications, Inc. agreed to pay the City \$295,000 and to fully comply with the City's Consumer Protection Law in its advertising in New York City newspapers and magazines. As part of the agreement, Sprint/Nextel's commitment to full compliance extends to the company's authorized dealers. The agreement with Sprint/Nextel marks the final settlement with major wireless companies sued by the agency for misleading consumers through deceptive cell phone advertisements. As a result of its monitoring, the DCA has secured a total of \$555,000 in payments from wireless companies and agreements to fully comply with the City's strong consumer protection regulations.

Jonathan Mintz, DCA Commissioner, said: "New Yorkers should be able to trust the promises wireless companies make. This final settlement with Sprint/Nextel assures that all of the major wireless companies will fully comply with the City's Consumer Protection Law. Our enforcement has banished practices prevalent in the industry and consumers are better protected - ads touting products and services must be clear, and the fine print can't contradict catchy headlines."

The DCA took on the wireless industry by filing suit in July 2005 against three major companies - T-Mobile U.S.A., Nextel Communications Inc., and Sprint Spectrum L.P. The DCA charged in New York Supreme Court that these companies illegally misled consumers by pitching their cell phone products and services in deceptive advertisements. Since the lawsuit commenced, Sprint and Nextel merged. T-Mobile settled with the DCA in December 2005 and paid \$135,000.

In its lawsuit, the DCA charged that Sprint/Nextel's advertisements were both confusing and misleading. The agency believed the disclosures made in the advertisements contradicted the company's principal offer. For example, the agency charged that the advertising was misleading by claiming:

- **"ALL INCOMING CALLS ARE FREE "** when in fact, a tiny, multi-line footnote at the bottom of the advertisement indicated "...an additional access charge of either \$.10 per minute multiplied by the number of participants on the call...or a monthly flat fee," would be charged to the consumer if he or she signed up for the advertised calling plan.
- **"NATIONWIDE LONG DISTANCE INCLUDED. EVERY MINUTE, EVERY DAY "** when in fact, a tiny, multi-line footnote at the bottom of the advertisement indicated a charge for long distance -- including the phrase "...an additional \$0.25 per minute for long distance."
- **"Instant savings require in-store purchase and activation of a new line..."** when a tiny footnote at the bottom of the advertisement stated "Requires in-store purchase and activation of two new lines of service on eligible plans." **In the same ad, Sprint advertised a "FREE" cell phone offer forcing consumers to look at the fine print to find that the offer required "...a

two-year Sprint PCS Advantage Agreement."

In 2004, the DCA also pursued claims against AT&T Wireless (since acquired by Cingular Wireless LLC), Cingular Wireless, and Verizon Wireless for deceptive advertising, but those companies settled without litigation and agreed to fully comply with the New York City Consumer Protection Law in their marketing.

The New York City Consumer Protection Law requires the type size used in print ads to be clear and conspicuous to the reader in order to avoid deceptive and unfair trade practices. It prohibits practices that have the capacity, tendency, or effect of deceiving or misleading consumers.

The attorneys handling the cases for the DCA and the City are Marla Tepper, DCA General Counsel, Susan Kassapian, DCA Assistant Commissioner for Litigation and Mediation, Mark Davis, DCA Staff Counsel, Gabriel Taussig, Chief, New York City Law Department's Administrative Law Division, and Sheryl Neufeld, Senior Counsel, New York City Law Department's Administrative Law Division.

The DCA accepts complaints on cell phone billing disputes and advertising, and conducts inspections at electronics stores - including cell phone stores - citywide. Fostering a marketplace where consumers are protected and businesses can thrive, the DCA licenses more than 60,000 businesses in 55 different categories in New York City. To file a complaint or to request a free copy of the DCA Consumer Advertising Guide, call 311 or visit DCA online at www.NYC.gov/consumers.