



Jonathan Mintz  
Commissioner

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March 15, 2010

Mr. Mark Friedman  
Chief Marketing and Business Development Officer  
SoundBite Communications  
22 Crosby Drive  
Bedford, MA 01730

Dear Mr. Friedman,

I write to express concern about recent reports in the New York Times that SoundBite Communications is marketing consulting services to financial institutions to implement overdraft opt-in requirements by using text message communications to obtain consent. Such practices would undermine the important protections enacted by the Federal Reserve Board (the Board) under Regulation E, which go into effect July 1, 2010, and which provide consumers with a meaningful choice about fee-based overdraft protection. I request an immediate meeting to discuss this matter.

New York City's Department of Consumer Affairs (the Department) has the power to stop deceptive marketing of products and services to New York City consumers, and it works across industries to prohibit misleading marketing and other practices that strip consumers of their legal rights. Under the leadership of Mayor Michael R. Bloomberg, the Department has prosecuted national tax preparers and wireless phone companies, following rigorous enforcement of the City's licensing and consumer protection laws. For example, our enforcement team recently inspected 1,100 tax preparers, issuing over 500 violations and bringing actions for false advertising. In addition, the Department has obtained more than half a million dollars in settlements from wireless phone companies for deceptive advertising. Our actions help clean up the New York City marketplace and set the standard for consumer protection agencies throughout the country.

The Department urged the Board, in formal comments, to require "opt-in" for overdraft services. This approach was adopted in the recent changes to Regulation E, which are designed to empower consumers to make an informed choice about whether their bank accounts include "courtesy" overdraft protection, a service that generated \$38 billion in fees last year alone. I do not want to see aggressive marketing strategies stretch the limits of the new regulations and threaten the financial security of consumers. Text message strategies flout the limits set by the new rules.

Given the Department's position in the New York City marketplace, as the regulator of 71,000 businesses in 57 different industries, with an office that regularly collaborates with financial institutions to develop and market affordable financial products, I request the opportunity to review any documents, marketing materials or software you have developed or are offering to any bank with operations or customers in New York City. Again, I request an immediate meeting to discuss the overdraft opt-in services you are offering. My Executive Assistant, Wanda Ford, will call you to schedule a meeting within the next week.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Mintz". The signature is stylized and cursive.

Jonathan Mintz