

**FEDERAL TRADE COMMISSION**

[File No. 012 3015]

**Stoker, Inc.; Analysis 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 or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement 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 May 21, 2001.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Michael Ostheimer, FTC/S-4002, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326-2699.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted 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 April 19, 2001) on the World Wide Web, at <http://www.ftc.gov/os/2001/04/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and

copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

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

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Stoker, Inc. ("Stoker").

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 Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves respondent's manufacturing, packaging, importing, and advertising of smokeless tobacco products. These activities are subject to the Comprehensive Smokeless Tobacco Health Education Act of 1986, 15 U.S.C. 4401, *et seq.* ("Smokeless Tobacco Act"), and the regulations promulgated pursuant thereto, 16 CFR 307, *et seq.* ("regulations"). The Smokeless Tobacco Act and the regulations require that smokeless tobacco product packages and advertisements bear specified health warnings. The FTC complaint alleges that Stoker failed to comply with those requirements in several respects.

First, the complaint alleges that certain of Stoker's smokeless tobacco products did not bear the health warning statements in conspicuous and legible type, in violation of the Smokeless Tobacco Act and the regulations. According to the FTC complaint, these products include sixteen ounce packages of smokeless tobacco that had the health warning statements printed in 5 point type.

The complaint also alleges that certain of Stoker's smokeless tobacco products violated the Act and the regulations because they did not bear the health warning statements in a conspicuous and prominent place on the package, in violation of the Smokeless Tobacco Act and the regulations. The complaint contends that one such product is distributed in a package that functions as a retail dispenser of individual packages. The health warning is on the top rear of the dispenser, but when the dispenser is opened and displayed as intended, the health warning is not visible to the public from the dispenser's normal viewing position.

Furthermore, the complaint alleges that certain of Stoker's smokeless

tobacco advertising did not bear the health warning statements in conspicuous and legible type and within the correct size circle and arrow format. According to the complaint, one such advertisement had a display area measuring 20¼ square inches and had the health warning statement printed in 4½ point type and appearing within a one-half inch diameter circle.

Finally, the complaint alleges that since 1987, Stoker has manufactured, packaged, or imported smokeless tobacco products without submitting a plan to the FTC specifying the method it would use to rotate, display, and distribute the health warning statements on its packages and advertisements, in violation of the Act and the regulations.

Violations of the Smokeless Tobacco Act and the regulations also constitute violations of section 5 of the FTC Act.

The proposed consent order is designed to prevent Stoker from engaging in similar acts and practices in the future. Part I of the proposed order prohibits respondent from violating any provision of the Smokeless Tobacco Act or the regulations.

Parts II through V of the order require Stoker to keep copies of relevant packaging and advertisements, to provide copies of the order to certain of its personnel, to notify the Commission of changes in corporate structure, and to file compliance reports with the Commission. Part VI provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

**Donald S. Clark,**  
Secretary.

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**FEDERAL TRADE COMMISSION**

[File No. 002 3003]

**Voice Media Incorporated, et al.; Analysis 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 or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the