

Complaint

IN THE MATTER OF

SHARP ELECTRONICS CORP.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-4002; File No. 9923263*
Complaint, March 7, 2001--Decision, March 7, 2001

This consent order addresses advertising by Respondent Sharp Electronics Corporation for its Mobilon line of hand-held personal computers, including in particular representations that the products' operating system could be upgraded at a later date. The order, among other things, prohibits the respondent from misrepresenting the availability of any upgrade product. The order also requires the respondent to offer the promised upgrade to consumers who purchased a Mobilon 4100, 4500, or 4600 handheld PC.

Participants

For the Commission: *Kerry O'Brien, Matthew Gold, Erika Wodinsky, Jeffrey Klurfeld, Jesse B. Leary, Gerard R. Butters, Paul A. Pautler and Jeremy I. Bulow.*

For the Respondent: *Denis T. Rich and Patricia Medina, Howard, Rice, Nemerovski, Canady, Falk & Rabkin.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Sharp Electronics Corp., a corporation, ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Sharp Electronics Corp. is a New York corporation with its principal office or place of business at Sharp Plaza, Mahwah, New Jersey 07430-2135.
2. Respondent has advertised, labeled, offered for sale, sold, and distributed consumer electronics products to the public, including

Complaint

the “Mobilon” line of hand-held personal computers (“HPCs”). Sharp’s Mobilon HPCs, as well as similar devices from several other manufacturers, use the Microsoft Windows CE operating system. This operating system and several applications, including a word processor, a spreadsheet, and a database, are installed on these devices’ ROM board. HPCs are designed to be upgradeable to newer versions of the operating system and/or applications through the purchase and installation of a new ROM board.

3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

4. Respondent has disseminated or has caused to be disseminated advertisements for Mobilon hand-held personal computers, including but not necessarily limited to the attached Exhibits A through C. These advertisements contain the following statements and depictions:

A. “HC-4100 Specifications

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ROM	Upgradeable
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(Exhibit A, brochure for Model HC-4100)

B. “HC-4600 Specifications

...

ROM	Upgradeable
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(Exhibit B, brochure for Model HC-4600)

Complaint

C. "Comparison Chart

Specifications:	<u>HC-4100</u>	<u>HC-4500</u>	<u>HC-4600</u>
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ROM	Upgradeable"
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(Exhibit C, World Wide Web ad)

5. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that it would offer to its Mobilon customers an upgrade to a later version of the Microsoft Windows CE operating system when such a later version became available.

6. In truth and in fact, respondent never offered to its Mobilon customers an upgrade to a later version of the Microsoft Windows CE operating system when such a later version became available. Further, respondent continued to represent that its Mobilon HPCs were upgradeable for several months after deciding not to offer an upgrade. Therefore, the representation set forth in Paragraph 5 was, and is, false or misleading.

7. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this seventh day of March, 2001, has issued this complaint against respondents.