



Groupon Deals Subject of State Investigations, Numerous Class Actions

Groupon, Inc., the Chicago-based online coupon company, may now be facing at least two investigations by state attorneys general, as well as more than a dozen class action lawsuits related to the issue of whether the company's discount coupons - called groupons - are really gift certificates and therefore violate state and federal consumer protection laws by carrying an expiration date.

Illinois Attorney General Lisa Madigan reportedly has asked to meet with the company to determine how it operates. The Illinois inquiry follows closely an investigation launched last week by the Connecticut Attorney General George Jepsen into whether the company's daily coupon deals violate the state's gift card laws. In a July 12, 2011, letter to Groupon CEO Andrew Mason, Jepsen stated that his office was inquiring into Groupon's business practices in Connecticut "amid allegations that [Groupon] imposes expiration dates on gift certificates that it sells to Connecticut consumers." Citing the state's statute governing gift cards and the Connecticut Unfair Trade Practices Act, the letter advises that Connecticut prohibits companies from offering gift cards or certificates that are subject to an expiration date and suggests that the company's groupons may fall under the statutes' definitions of gift certificate. It also requests information and documentation on groupons, including, among other things, what they are, how they are offered to Connecticut consumers, and whether they are subject to expiration dates, as well as Groupon's policies with respect to expiration dates.

In contrast to the Connecticut investigation, which was spurred by a consumer complaint, the inquiry by the Illinois Attorney General's office reportedly is styled as a "conversation," since the state apparently has received no consumer complaints and no indication that any Illinois consumers have had any issues with Groupon.

Groupon also faces numerous class action lawsuits claiming that the company's coupons are in fact gift certificates subject to state and federal consumer protection laws. In an amended filing with the Securities and Exchange Commission this week in support of its upcoming initial public offering, Groupon stated that it "and several merchants with whom we have partnered are currently defendants in 15 purported class actions that have been filed in federal and state court." In these actions, the plaintiffs claim that the company's e-mailed deals, which typically are valid for six months to a year, violate the Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009, which prohibits gift cards from expiring in less than five years. The suits allege that customers must pay for the deal up front, blurring the line between coupon and gift certificate, and that they often are unable to use the deals before they expire, allowing Groupon and the merchants to profit. The lawsuits also claim that while Groupon merchants are required to give customers a credit for the value of what they paid after the original discount expires, the company's policy is not well known or followed.

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