

Groupon policies spark lawsuits

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The wildly popular discount-deal website Groupon faces a flurry of lawsuits from customers in Seattle and elsewhere who claim it violates consumer-protection laws by setting expiration dates and other limits on the vouchers it sells.

The company cultivates a customer-friendly aura with goofy and irreverent pitches for off-price meals, products and services, but its policies have raised some consumers' hackles.

Seattle resident Nevin Booth bought a discount voucher for the Blue Ribbon Cooking School near Lake Union in February 2009, and didn't use it before its one-year expiration.

In a federal lawsuit filed last month in Groupon's hometown of Chicago, his attorneys charge that Illinois gift certificate laws "prohibit expiration dates earlier than five years... (yet) Groupon has made hundreds of millions of dollars by making end runs around these laws."

Likewise, an enormously popular Nordstrom Rack promotion — which drew 625,000 buyers in late November for a Groupon deal offering \$50 in merchandise for \$25 — prompted a lawsuit by an Akron resident claiming the companies broke Ohio's consumer laws as well as federal protections by making the coupons expire on Dec. 31.

That suit also complains that "Groupon essentially places handcuffs" on how consumers can use their gift certificates with its policy that each voucher's full value must be used in a single transaction or the remainder is forfeited.

Other suits have been filed from California to Washington, D.C., all seeking class-action status. Several will likely be consolidated into a single national case, says Stephen Swedlow, managing partner of Chicago office of Korein Tillery, who filed Booth's lawsuit.

Groupon says that if a deal has expired, its merchants are expected to credit or refund the amount customers actually paid for it.

Spokeswoman Julie Mossner won't comment on the suits, but says, "We have a very liberal return policy."

"We work with merchants so that once that expiration date passes you still have credit to their business in the amount of what you paid," she says, adding that "if you can't redeem your Groupon, you can contact us for a refund."

Swedlow responds that the lawsuits boil down to "whether or not Groupon saying 'You can have your money back' is good enough."

Washington state has a gift-certificate law similar to that in Illinois. The so-called Credit Cardholders' Bill of Rights that became federal law last year also requires gift certificates and gift cards to be valid for five years.

Under such laws, argues Swedlow, Groupon's deals should be valid for at least five years, and any unused amount should be refundable or usable in a subsequent transaction.

"If you get a massage with \$100 value for \$50, it's supposed to be good for \$100 for five years," he says.

The lawsuits don't attempt to estimate how much value consumers have left on the table through expired or partially used Groupon deals.

Groupon, which is private and just 2 ½ years old, had an estimated \$500 million in sales last year. The website says it has sold 42.5 million discount deals.

In part, the lawsuits revolve around what part of a Groupon deal legally constitutes a gift certificate.

LivingSocial, Groupon's major rival in the increasingly crowded group-deal sector, makes an explicit distinction in the fine print on its website. It says that what a customer buys is divided into two parts: a gift certificate that's worth what the buyer paid, and a promotional deal that expires.

Groupon's fine print isn't that explicit, but spokeswoman Mossler says that "the expiration date is for the promotional value" — meaning the amount beyond what a consumer actually shelled out.

Swedlow says that regardless of how the selling sites slice it, customers are simply buying one discount deal that's subject to the gift certificate laws.

Other online discount sites, including The Seattle Times' recently introduced DealDigger and Seattle-based Ideal Network, have similar rules about expiration and one-time use.

Seattle Times Co. spokeswoman Jill Mackie says the company is following the litigation surrounding sites like Groupon. "If it is determined any provision associated with dealDigger is inconsistent with state or federal law, we will most certainly adjust the provision as needed."

Nordstrom doesn't believe it did anything wrong with the Rack coupons, and is letting Groupon handle the defense in that lawsuit, says spokeswoman Tara Darrow.

One legal wrinkle this past week that could affect all such cases: The Supreme Court ruled Wednesday that companies can require consumers to sign agreements sending all disputes to individual arbitration and barring class-action cases.

That could deal "a crushing blow" to a lot of group litigation on consumers' behalf, says Swedlow. Groupon has such an arbitration requirement in its current terms of service, he says.

But he doesn't think challenges to the company's policies are over.

"Groupon has grown exponentially in the last couple years. Now people are irritated that they bought something and it became worthless, or worth less than they thought," he says. "I know my wife has a bunch of expired Groupons."

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