

AT&T Mobility's Data Throttling Is Deceptive Practice, FTC Claims

AT&T Mobility throttled the data for millions of its customers who signed up for “unlimited” data plans even though the customers were told their use would not be limited, the Federal Trade Commission charged in a lawsuit.

The complaint alleges that in 2010 AT&T ceased offering unlimited mobile data plans to new customers. Instead, new customers were required to pay different rates for the amount of data used. For existing customers, AT&T offered to “grandfather” the unlimited data plans.

In July 2011, AT&T began reducing the data speed for unlimited mobile customers, a practice commonly known as “data throttling.” The throttling “substantially reduces the speed at which the customer’s device receives data for the rest of that customer’s billing cycle,” the FTC said. For some customers, the throttling reduced speeds by 90-95 percent. “As a result . . . many everyday applications, such as web browsing, GPS navigation, and streaming video, are significantly slower, and in some cases are severely impaired or rendered practically inoperable.” Customers who paid for a tier program were not throttled.

The FTC complaint alleges that AT&T’s advertising, sales, and renewals of its unlimited mobile data plans did not provide that AT&T could modify, diminish, or impair the service of customers who used more than a specified amount of data. The FTC said AT&T’s advertising represented that customers’ unlimited data plans would not be limited. By limiting the data speed, AT&T engaged in a deceptive act or practice, the FTC claims.

The complaint notes that when AT&T implemented the throttling program, it conducted internal focus group research that found “its throttling program was inconsistent with consumer understanding of an ‘unlimited’ data plan. The researchers concluded that, ‘[a]s we’d expect, the reaction to [a proposed data throttling program] was negative; consumers felt ‘unlimited should mean unlimited[.]’ The focus group participants thought the idea was ‘clearly unfair.’”

The FTC said thousands of customers have submitted written complaints concerning AT&T’s throttling program.

Since October 2011, AT&T has throttled its customers more than 25 million times, affecting more than 3.5 million customers, the FTC alleges. When a customer is throttled, the customer’s data speed is reduced on average for the last 12 days of the customer’s 30-day billing cycle. Throttled customers are subjected to the reduced speed “even if they use their smartphones at a time when Defendant’s network has ample capacity to carry the customers’ data, or the use occurs in an area where the network is not congested,” the complaint said.

Federal Trade Commission v. AT&T Mobility, LLC, D.C.N.D. Calif. No. 14 cv 4785-KAW, filed October 28, 2014.