

Netflix settlement trims 14 pct off 4Q earnings

February 11 2012, By MICHAEL LIEDTKE , AP Technology Writer

(AP) -- Netflix pressed the rewind button on its fourth-quarter earnings after settling allegations that the video subscription service violated a consumer-privacy law.

Accounting for the \$9 million settlement resulted in a 14 percent decrease in the fourth-quarter net income that [Netflix Inc.](#) reported Jan. 25.

The bottom line for the final three months of last year now comes to \$35.2 million, or 64 cents per share, down from the previously reported \$40.7 million, or 73 cents per share. The company, which is based in Los Gatos, disclosed the change in a regulatory filing late Friday.

Netflix's [stock price](#) has surged 23 percent since the fourth-quarter results were released, partly because the company's earnings were substantially above analysts' average estimate of 57 cents per share. But investors mostly were impressed with Netflix's fourth-quarter gain of 600,000 subscribers - a number unaffected by Friday's accounting adjustment

The upturn in subscribers indicated that Netflix had bounced back from a public-relations nightmare triggered by a 60 percent increase in its U.S. prices last September. Netflix expects to sustain a loss this year as it pays higher licensing fees for video and establishes its service in [Latin America](#), the United Kingdom and Ireland.

The \$9 million [legal settlement](#) rids Netflix of another potential headache.

A lawsuit on behalf of Virginia residents Jeff Milans and Peter Comstock alleged Netflix had been breaking a 24-year-old law by retaining records of the DVDs and Internet video that its subscribers watched for up to two years after they cancelled their plans. The complaint, filed in San Francisco federal court, cited the Video [Privacy Protection Act](#), which was passed in 1988 to prevent video rental services from sharing information about what their current and former customers have been watching.

The class-action lawsuit asserted Netflix violated a section of the law requiring personally identifiable information to be destroyed within a year "from the date that the information is no longer necessary for the purpose for which it was collected."

Retaining former customers' viewing records allows Netflix to restore their old video queues and make better recommendations if they reactivate their subscriptions.

In a statement Friday, Netflix said it didn't make any admission of wrongdoing in the settlement. No other details were disclosed in a settlement notice filed Friday in federal court. In most class-action settlements, attorneys filing the case usually are paid a large portion of any money that is paid out.

Sean Reis, an attorney representing Milans and Comstock, didn't immediately return phone calls Friday.

Netflix has been lobbying Congress to revise the Video Privacy Protection so it can introduce a feature on Facebook's online social network that would allow its U.S. subscribers to automatically let their

family and friends know what they have been watching. Netflix already offers the Facebook tool in the 46 other countries it operates, but all but more than 90 percent of its roughly 26 million subscribers are in the U.S.

"This matter is unrelated to the company's concerns about the ambiguities contained in the VPPA," Netflix spokesman Steve Swasey said.

Netflix shares closed Friday at \$123.93, down 91 cents.

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Citation: Netflix settlement trims 14 pct off 4Q earnings (2012, February 11) retrieved 23 April 2024 from <https://phys.org/news/2012-02-netflix-settlement-trims-pct-4q.html>

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