



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Director
Bureau of Consumer Protection

June 21, 2007

Jeffrey Chester
Executive Director
Center for Digital Democracy
1718 Connecticut Ave. NW
Suite 200
Washington, DC 20009

Ed Mierzwinski
Consumer Program Director
U.S. PIRG
218 D St. SE
Washington, DC 20003

Re: Complaint Concerning Unfair and Deceptive Online Marketing Practices

Dear Messrs. Chester and Mierzwinski:

This follows up on my earlier letter regarding the complaint you filed with the Federal Trade Commission last November. That complaint discusses a number of issues relating to consumer privacy and online advertising, including "behavioral targeting," the practice by which companies collect information about consumers and their online activities and deliver targeted advertising based upon that information.¹ Your complaint states that current online advertising and marketing practices, including the use of tracking and web analytics, data gathering and mining, and behavioral targeting, threaten the privacy of the public. You have requested that the Commission investigate these practices and issue injunctions where appropriate to halt abuse, and also recommend federal legislation to require an opt-in regime wherever consumer data is collected.

As the nation's consumer protection agency, the FTC endeavors to regularly update and expand its knowledge of emerging technologies and business practices to guide its law enforcement and policy objectives. In the area of online privacy, our goal is to help consumers benefit from commerce and the free flow of information online without encountering undue privacy or security risks. For this reason, we place a high priority on learning more about

¹ We have also received your more recent complaint, submitted with the Electronic Privacy Information Center ("EPIC"), raising related concerns with respect to the proposed acquisition of DoubleClick, Inc. by Google, Inc.

ongoing developments with regard to online advertising technology and practices, and we appreciate you bringing your concerns to the Commission's attention.

As you know, the Commission examined similar issues in 2000 when it co-sponsored a public workshop on "online profiling" and issued two related reports.² Our work in this area contributed to the Network Advertising Initiative's development of its self-regulatory framework governing third-party network advertising companies. Since that time, as noted in your complaint, there have been significant developments in technology as well as in the methods and business arrangements used by companies engaged in online advertising. Indeed, many of these changes were highlighted at the FTC's Tech-Ade hearings last November, at which various companies discussed their online advertising practices and the industry's evolving landscape.

By way of this letter, I want to outline some of the steps FTC staff has taken to inform our understanding of the practices and issues raised in your complaint. Since receiving your complaint, FTC staff has held over fifteen meetings and discussions with a variety of knowledgeable parties, including public interest privacy groups such as your own, academics, technologists, and various members of industry.

Through these meetings, as well as our work on the Tech-Ade hearings, the staff has learned a great deal about the changing online advertising models and their impact on consumer privacy and e-commerce in general. For example, various companies and third party advertisers have described their business models and plans with respect to data collection; technologists have demonstrated how consumer data is tracked and collected online; the National Advertising Initiative has updated us on its self-regulatory program; and privacy groups have outlined their thoughts and concerns with respect to behavioral targeting and related issues. Based on these meetings, we believe that these issues merit further examination in a public forum. In particular, the staff believes that the FTC and the public would benefit from further discussion about: the relationships between the various industry segments engaged in different facets of online advertising; the status of industry self-regulation; the extent to which companies are collecting personally identifiable information vs. non-personally identifiable information online; whether and how data collected online is being combined with data collected from other sources; industry measures to inform consumers about data collection and use in connection with online advertising; and consumer understanding of such practices.

Therefore, consistent with the Chairman's recent commitment to follow up on issues raised at the Tech-Ade hearings,³ the Commission will hold at least one Town Hall meeting to learn more about behavioral targeting and related consumer protection issues. These Town Hall

² *Online Profiling: A Report to Congress*, June 2000, available at <http://www.ftc.gov/os/2000/06/onlineprofilingreportjune2000.pdf>; *Online Profiling: A Report to Congress Part 2 Recommendations*, July 2000, available at <http://www.ftc.gov/os/2000/07/onlineprofiling.htm>.

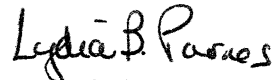
³ See *Building a Culture of Privacy and Security – Together*, Remarks of Deborah Platt Majoras, Chairman, Federal Trade Commission at The IAPP Privacy Summit, March 7, 2007, available at <http://www.ftc.gov/speeches/majoras/070307iapp.pdf>.

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meetings will be part of a series of such meetings, held around the country during the fall, to supplement and expand on some of the key topics discussed at the Tech-Ade hearings. We look forward to your participation in this event.

Again, I appreciate your bringing this matter to our attention. CDD, PIRG, and EPIC have been important voices on consumer privacy issues, and we hope to continue our dialogue at the upcoming Town Hall meeting.

Sincerely,

A handwritten signature in black ink that reads "Lydia B. Parnes". The signature is written in a cursive style with a large initial "L".

Lydia B. Parnes

cc: Marc Rotenberg, Executive Director
Electronic Privacy Information Center