



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

U. S. Federal Trade Commission Staff Comments on the European Commission’s Green Paper Titled “Towards an Integrated European Market for Card, Internet and Mobile Payments”

April 10, 2012

I. Introduction

The United States Federal Trade Commission (FTC) staff appreciates this opportunity to respond to the European Commission’s Green Paper regarding the development of secure, transparent, and innovative internet and mobile payment systems.¹ The FTC is the U.S. government agency with primary general jurisdiction on consumer protection, especially with regard to electronic commerce, privacy, advertising claims, and consumer fraud, and shares jurisdiction on consumer financial practices with the newly-created Consumer Financial Protection Bureau. Through a combination of enforcement, policy initiatives, and consumer and business education, the FTC protects the interests of U.S. consumers.

Like the European Commission, FTC staff is interested in emerging online and mobile payment systems; the benefits they might offer to consumers and businesses; and any consumer protection issues they raise, such as the effectiveness of redress and dispute rights and mechanisms, information security, and consumer privacy. While the Green Paper raises a broad range of issues, this comment is limited to providing information on the FTC’s current consumer protection work on mobile payment systems, as well as background on the FTC’s work in the mobile space generally that may be of relevance for your consultation.

II. The FTC’s Current Work on Mobile Payment Systems

The FTC is planning to explore issues similar to several of those raised in the Green Paper at the FTC’s upcoming workshop, “Paper, Plastic, or...Mobile? An FTC Workshop on Mobile Payments,” on April 26, 2012, in Washington D.C.² Our workshop will focus on the development of mobile payment systems and the impact of this development on consumers. As the European Commission’s Green Paper highlights, the mobile device has become one of the

¹ This comment is provided by staff of the Federal Trade Commission’s Division of Financial Practices (DFP) and Office of International Affairs (OIA), and does not necessarily reflect the views of the Commission or any individual Commissioner.

² More information about the FTC’s upcoming workshop on mobile payments can be found at <http://www.ftc.gov/bcp/workshops/mobilepayments/>.

fastest growing payment methods in today's market. In an effort to ensure that consumer protections keep pace with this growth, the FTC's upcoming workshop will bring together consumer advocates, industry representatives, government regulators, technologists, and academics to discuss these issues. Hoping to take advantage of other countries' experiences with mobile payments, we plan to include international participants on the workshop's panels.

The workshop will discuss the various technologies used to fund and effectuate payments using mobile devices, and the associated risks and recourse mechanisms in place for consumers. In addition, as the European Commission's Green Paper notes, the emergence of mobile devices as payments mechanisms raise a number of security and privacy concerns.³ The FTC workshop will explore these issues, and also will examine existing statutory protections in order to identify any gaps created by this quickly evolving payments channel. Finally, the FTC will use the workshop as an opportunity to explore possible "next steps" for government, industry members, and consumer organizations.

The European Commission's Green Paper also highlights transparency, an important issue associated with the adoption of mobile devices as payments mechanisms. To address the issue of transparency, the FTC is hosting a second public workshop on May 30, 2012, in Washington D.C., focused on the issue of providing clear and understandable disclosures in online and mobile media.⁴ This day long workshop will examine how the FTC's existing advertising guidelines (known as "Dot Com Disclosures"⁵) can be revised to better promote transparency in the current online and mobile environment.

III. The FTC's Past Work in the Mobile Space

The above described workshops are part of a substantial body of enforcement and policy work in emerging technologies that the FTC has done for several decades. For example, in earlier workshops, the FTC examined consumer protection issues associated with the development of the mobile wireless web,⁶ the applications and implications of Radio Frequency Identification (RFID) technology for consumers,⁷ the role of mobile in commerce,⁸ and the anticipated emergence of contactless payment systems in the United States.⁹ Most recently, the FTC issued two reports to promote greater privacy protections for consumers using mobile technologies.

³ See Green Paper, European Commission, Towards an Integrated European Market for Card, Internet and Mobile Payments (Jan. 11, 2012), 18-19 (noting that security and personal data protection are serious concerns for both consumers and merchants alike).

⁴ More information about the FTC's upcoming workshop on dot com disclosures can be found at <http://www.ftc.gov/opa/2012/02/dotcom.shtm>.

⁵ See FTC Publication, *Dot Com Disclosures: Information About Online Advertising* (May 2000), available at <http://www.business.ftc.gov/documents/bus41-dot-com-disclosures-information-about-online-advertising>.

⁶ See FTC Staff Report, *The Mobile Wireless Web, Data Services and Beyond: Emerging Technologies and Consumer Issues* (February 2002), available at <http://www.ftc.gov/bcp/reports/wirelesssummary.pdf>.

⁷ See FTC Staff Report, *Radio Frequency Identification: Applications and Implications for Consumers* (March 2005), available at <http://www.ftc.gov/os/2005/03/050308rfidrpt.pdf>.

⁸ See FTC Workshop, *Protecting Consumers in the Next Tech-ade* (Nov. 6-8, 2006), available at <http://www.ftc.gov/bcp/workshops/techade/transcripts.html>.

⁹ See FTC Workshop, *Pay on the Go: Consumers & Contactless Payment* (July 24, 2008), available at <http://www.ftc.gov/bcp/workshops/payonthego/index.shtml>.

The first report, *Mobile Apps for Kids: Current Privacy Disclosures are Dis-app-ointing*, reported on the results of an FTC staff survey showing that neither the major app stores nor the app developers provide basic information parents need to determine what data is being collected from their children, how it is being shared, or who will have access to it. The report called on all players in the mobile ecosystem to play an active role in providing this important privacy information to parents.¹⁰ The second report, *Protecting Consumer Privacy in an Era of Rapid Change*, set forth a comprehensive framework to guide businesses and policymakers in developing privacy protections, including in the mobile space. The framework drew on the FTC's extensive experience in the privacy area, as well as three public roundtables examining privacy, and hundreds of comments from diverse stakeholders.¹¹

The FTC also has brought numerous law enforcement actions in the mobile area. For example, over the past year and a half, the FTC has obtained settlements with Google, Facebook, and Twitter, requiring them to implement comprehensive privacy programs for all of their internet and mobile services.¹² Last fall, the FTC obtained a settlement barring a peer-to-peer file-sharing application developer from using default settings in a way that shared files from consumers' mobile devices.¹³ And, last August, the agency obtained civil penalties against a developer of mobile applications that allegedly violated the Children's Online Privacy Protection Act (COPPA) by collecting and maintaining thousands of user email addresses without parental notification or consent.¹⁴ Moreover, the FTC has challenged the failure by online and mobile companies to abide by long-held truth-in-advertising principles,¹⁵ and earlier this year warned marketers of mobile applications that their practices may be violating the Fair Credit Reporting Act.¹⁶

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¹⁰ FTC Staff Report, *Mobile Apps for Kids: Current Privacy Disclosures are Disappointing* (Feb. 2012), available at http://www.ftc.gov/os/2012/02/120216mobile_apps_kids.pdf.

¹¹ FTC Report, *Protecting Consumer Privacy in an Era of Rapid Change* (Mar. 2012), available at <http://www.ftc.gov/os/2012/03/120326privacyreport.pdf>.

¹² See *In the Matter of Google, Inc.*, File No. 102 3136, Docket No. C-4336 (Oct. 13, 2011) (consent order), available at <http://ftc.gov/os/caselist/1023136/111024googlebuzzdo.pdf>; *In the Matter of Facebook, Inc.*, File No. 092 3184 (Nov. 29, 2011) (consent order), available at <http://www.ftc.gov/os/caselist/0923184/111129facebookagree.pdf>; *In the Matter of Twitter, Inc.*, File No. 092 3093, Docket No. C-4316 (Mar. 2, 2011) (consent order), available at <http://www.ftc.gov/os/caselist/0923093/100624twitteragree.pdf>.

¹³ *Federal Trade Commission v. Frostwire, LLC*, No. 11-cv-23643 (S.D. Fla. Oct. 12, 2011) (stipulated final order), available at <http://www.ftc.gov/os/caselist/1123041/111012frostwirestip.pdf>.

¹⁴ *United States v. W3 Innovations, LLC*, No. CV11-03958-PSG (N.D. Cal. Sept. 8, 2011) (consent decree), available at <http://ftc.gov/os/caselist/1023251/110908w3order.pdf>.

¹⁵ See *In the Matter of Reverb Commc'ns, Inc.*, File No. 092 3199, Docket No. C-4310 (Nov. 22, 2010) (consent order), available at <http://www.ftc.gov/os/caselist/0923199/101126reverbdo.pdf>; see also *In the Matter of Koby Brown*, File No. 102-3205, Docket No. C-4337 (Oct. 13, 2011) (consent order), available at <http://ftc.gov/os/caselist/1023205/111021dermapsdo.pdf>; *In the Matter of Andrew N. Finkel*, File No. 102-3206, Docket No. C-4338 (Oct. 13, 2011) (consent order), available at <http://ftc.gov/os/caselist/1023206/111021acnedo.pdf>.

¹⁶ See Press Release, Federal Trade Commission, *FTC Warns Marketers that Mobile Apps may Violate Fair Credit Reporting Act* (Feb. 7, 2012), available at <http://www.ftc.gov/opa/2012/02/mobileapps.shtm>.

Like the European Commission, we are interested in stakeholder views on the obstacles hindering the development of secure, transparent, and innovative internet and mobile payment systems. We believe that the information gathered at the FTC's upcoming workshops on mobile payments and proper disclosures in the online and mobile environment will be highly relevant to both the European Commission's and the FTC's efforts on these issues. We very much appreciate the opportunity to provide these comments and would welcome the opportunity to discuss these issues further. Any questions or comments can be directed to Jessica Rich, Associate Director, Division of Financial Practices, Bureau of Consumer Protection, U.S. Federal Trade Commission, jrich@ftc.gov, 202-326-2148, or Hugh Stevenson, Deputy Director, Office of International Affairs at the U.S. Federal Trade Commission, hstevenson@ftc.gov, 202-326-2803, and Stacy Feuer, Assistant Director for International Consumer Protection at the U.S. Federal Trade Commission, sfeuer@ftc.gov, 202-326-3072.