

August 11, 2011

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**Federal Trade Commission
Bureau of Consumer Protection**

**In the Matter of the Request for
Comments Regarding “Dot Com Disclosure” Business Guidance Publication
Matter No. P114506**

Comments of the Internet Commerce Coalition

The Internet Commerce Coalition (“ICC”) appreciates the opportunity to comment on potential modifications to the dotcom Disclosure Guidelines (“the Guidelines”).

The ICC’s members include leading Internet and e-commerce companies and trade associations: Amazon.com, AOL, AT&T, CareerBuilder, Comcast, eBay, Google, Monster.com, Time Warner Cable, Verizon, Tech America and US Telcomm. Our members all appreciate the importance of the guidelines and work hard to bring clear notice of material terms to consumers.

The ICC believes that the principles set forth in the FTC’s Guidelines continue to be sound, and were far-sighted when established in 2000. However, the examples in the Guidelines are outdated and do not reflect current technology and the constraints advertisers face in mobile advertising and social media. The Guidelines should update these examples, while providing flexibility for advertisers to satisfy the principles depending upon space and other constraints.

First, the Guidelines need to build in greater flexibility for advertisers who face space constraints which limit advertiser control in certain social media advertising. These may in turn be compounded by the ability of third party users to copy and disseminate part of a disclosure. For example, a message regarding a sweepstakes on Twitter, which has a 140 character limitation, cannot contain the necessary disclosures. Instead, the disclosures must be contained in a second tweet immediately following the tweet promoting the contest. However, if a consumer re-tweets the message promoting the tweet, but does not re-tweet the disclosures tweet, this occurs beyond the advertiser’s control.

Flexibility is particularly important in mobile disclosures, because the ability to provide readable disclosures varies by device and format – for example, text messages, expandable iPhone screens, and “fixed” blackberry screens. For this reason, a one-size-fits-all solution is not appropriate for mobile. Furthermore, as the challenges posed by the mobile revolution demonstrate, the FTC needs to build flexibility into the Guidelines to account for future evolution of technology.

In particular, the Guidelines must be revised to reflect the realities of working with severely limited advertising space. For example, disclosures should be required on the landing page after a hyperlink in an ad, rather than in the ad itself. Requiring disclosures on the first page of an ad would in many instances overwhelm consumers with information – information that they cannot read on some smart phones. It would also severely limit the utility of advertising, which is the lifeblood of the availability of free content on the Internet.

Second, because of the importance of truthful advertising to the availability of free content, the FTC should temper its final recommendations on placement of disclosures with the understanding that disclosures one-click-away from an ad still accomplish the goal of consumer protection. Indeed, disclosures that are one click away from a clear hyperlink may actually be more informative for consumers because they are not limited by space.

Finally, the FTC should revise the examples in the Guidelines so that they focus not on what advertisers must disclose, but on how these disclosures should be represented in various forms of media. If the FTC adopts a more forward-thinking approach to the Dot Com Disclosures, these Guidelines will protect consumers in a way that is more viable in the future, as new technologies emerge.

We thank you for considering our views.

Sincerely,

Jim Halpert, General Counsel
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