

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of True Ultimate Standards Everywhere, Inc.,
Doing Business As TRUSTe, Inc., File No. 132 3219

The Federal Trade Commission has accepted, subject to final approval, an agreement containing an order from True Ultimate Standards Everywhere, Inc. (“TRUSTe”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves respondent’s marketing and distribution of a variety of online privacy seals (“seals”) for companies to display on their websites. The FTC complaint alleges that respondent violated Section 5(a) of the FTC Act by falsely representing to consumers the frequency with which it reviews and verifies the practices of companies displaying its website and mobile seals. Specifically, the complaint alleges that from June 1997 until January 2013, respondent failed to conduct annual recertifications for almost 1,000 companies holding respondent’s TRUSTed Websites, COPPA/Children’s Privacy, EU Safe Harbor, TRUSTed Cloud, TRUSTed Apps, TRUSTed Data, and TRUSTed Smart Grid seals. In addition, the complaint alleges that respondent provided to its sealholders the means and instrumentalities to misrepresent that respondent is a non-profit corporation. The FTC complaint describes, with specificity, that following respondent’s transition to a for-profit corporation in July 2008, respondent recertified numerous clients whose privacy policies continued to describe TRUSTe as a non-profit entity.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits respondent from misrepresenting (1) the steps respondent takes to evaluate, certify, review, or recertify a company’s privacy practices; (2) the frequency with which respondent evaluates, certifies, reviews, or recertifies a company’s privacy practices; (3) the corporate status of respondent and its independence; and (4) the extent to which any person or entity is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy program sponsored by respondent. Part II of the proposed order prohibits respondent from providing to any person or entity the means and instrumentalities (including any required or model language for use in any privacy policy or statement) to misrepresent any of the same items in Part I of the proposed order.

Parts III and IV of the proposed order contain additional reporting requirements with respect to respondent’s COPPA/Children’s Privacy seal. First, the proposed order expands respondent’s COPPA recordkeeping and reporting requirements to ten years. Second, the proposed order requires respondent to report (1) the number of new seals it awards; (2) how it assesses the fitness of members; and (3) any additional steps it takes to monitor compliance with the safe harbor requirements. Third, the proposed order expands respondent’s COPPA requirement to retain consumer complaints and descriptions of disciplinary actions to include consumer complaints related to respondent and its safe harbor program participants as well as all

documents related to disciplinary actions taken by respondent. Fourth, the proposed order imposes additional COPPA recordkeeping requirements, such as a requirement that respondent retain detailed explanations of assessments of new and existing applicants in any COPPA safe harbor program.

Part V of the proposed order requires respondent to pay \$200,000 to the United States Treasury as disgorgement.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint order or to modify in any way the proposed order's terms.