



Office of the Secretary

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

May 20, 2016

Jay Corley
Blue Stone Dental
State of Texas

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Mr. Corley:

Thank you for your comment on behalf of Blue Stone Dental regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law

violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).



Office of the Secretary

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

May 20, 2016

Hughey
Commonwealth of Pennsylvania

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Commenter Hughey:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. Your comment also expresses concern that the proposed order will not sufficiently deter the alleged unlawful conduct. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law violation. Accordingly, under the

proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45 (l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).



Office of the Secretary

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

May 20, 2016

Johnson
State of Oregon

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Commenter Johnson:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrrix G5 software ("Dentrrix G5") provides industry-standard encryption, and that Dentrrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrrix G5 offers industry-standard encryption; (2) the ability of Dentrrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment requests that the proposed consent agreement and order require Henry Schein to provide notice to every current user of Dentrrix software. The issue of notice is an important one. For this reason, the proposed consent agreement and order includes several safeguards. For example, Part II of the proposed consent agreement and order requires Henry Schein to mail individual notices to consumers, including dental practices, that purchased Dentrrix G5 prior to January 2014, informing them that Dentrrix G5 uses a less complex encryption algorithm to protect patient data than AES which is recommended as an industry standard by NIST. Providing individual notice in this fashion ensures that those customers most likely to have been deceived by Henry Schein's misrepresentations understand the scope of data protection offered by Dentrrix G5 and its limitations in helping dentists satisfy their security obligations under HIPAA. Part II also requires that Henry Schein establish a toll-free telephone

number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary



Office of the Secretary

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

May 20, 2016

Mohsin Khan
State of Illinois

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Mr. Khan:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrrix G5 software ("Dentrrix G5") provides industry-standard encryption, and that Dentrrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrrix G5 offers industry-standard encryption; (2) the ability of Dentrrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises three main points. First, you ask why the order does not include a requirement "regarding the notification and auditing of privacy practice for 20 years" as compared to prior orders. The proposed consent agreement and order does not require HSPS to create and maintain a comprehensive information security program or undergo biennial assessments, as required in some other FTC data security orders presenting different facts. However, the proposed consent agreement and order requires Henry Schein to file true and accurate written reports with the Commission describing its compliance with the order. In addition, the proposed consent agreement and order imposes recordkeeping requirements on the company regarding, among other things, advertisements and promotional materials. The Commission believes that these compliance and recordkeeping provisions appropriately address the conduct at issue in this matter.

Second, your comment asks about the FTC's enforcement strategy with respect to providers including what, if any, consideration the Commission would give to a provider's reliance on representations by a vendor that its products meet electronic protected health information (ePHI) security requirements. The Commission issues an administrative complaint when it has reason to believe that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest.¹ In this case, the Commission alleges that Henry Schein disseminated or caused to be disseminated promotional materials and statements about its Dentrix G5 software that falsely represented the product's ability to encrypt patient data and help dentists meet regulatory obligations related to HIPAA. In evaluating whether these representations were likely to mislead, the Commission considered the totality of the circumstances, including the fact that dental practices may not have the opportunity or expertise to evaluate how a software product works and how much protection it offers. Providers should of course take reasonable steps to verify that vendors have implemented the security protections they claim to offer.

Third, your comment asks whether the Commission action prohibits or limits any additional action by the Department of Health and Human Services Office of Civil Rights. Please note that the Commission's proposed complaint does not allege that Henry Schein violated HIPAA, but rather that it deceptively represented that Dentrix G5 helps dentists protect patient data, as required by HIPAA. Moreover, the Commission's action in this matter is independent of any enforcement activity by the Department of Health and Human Services Office of Civil Rights.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ 15 U.S.C. § 45(b).



Office of the Secretary

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

May 20, 2016

Lorne Lavine
The Digital Dentist
State of California

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Mr. Lavine:

Thank you for your comment on behalf of The Digital Dentist regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment indicates that you disagree with the proposed remedies and believe that Henry Schein is not an appropriate target for Commission action in this case. The Commission appreciates your comment. The Commission issues an administrative complaint when it has reason to believe that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest.¹ In this case, the Commission alleges that Henry Schein falsely advertised the level of encryption it provided for patient data. Like all companies, software providers must live up to any promises they make regarding the privacy and security of consumer information. Here, as alleged in the complaint, as early as November 2010, the

¹ 15 U.S.C. § 45(b).

database engine vendor informed Henry Schein that the form of data protection used in Dentrix G5 was a proprietary algorithm that had not been tested publicly and was less secure and more vulnerable than widely-used industry-standard encryption algorithms, such as AES encryption. Nevertheless, as further alleged in the complaint, for a period of two years Henry Schein disseminated or caused to be disseminated promotional materials and statements about its Dentrix G5 software that emphasized the product's ability to encrypt patient data and help dentists meet regulatory obligations related to HIPAA. Although the Commission's actions in this matter partially rely on non-public information gathered in the underlying investigation, the Commission carefully considered the issues you have raised prior to accepting the complaint and proposed consent agreement and order for public comments.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary



Office of the Secretary

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

May 20, 2016

Miles
State of Nebraska

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Commenter Miles:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrrix G5 software ("Dentrrix G5") provides industry-standard encryption, and that Dentrrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrrix G5 offers industry-standard encryption; (2) the ability of Dentrrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment makes several main points. First, your comment expresses concern that the monetary relief in the proposed consent agreement and order is insufficient, and proposes that Henry Schein compensate dentists for the costs of transitioning to other software providers. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. Please note that the Commission's proposed complaint in this matter alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law violation. Accordingly, under the

proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

Second, your comment asks that the proposed consent agreement and order impose additional notice obligations. Specifically, you propose that the Commission require Henry Schein to issue a public apology and make statements on its website and to the press explaining its conduct. The issue of notice is an important one. For this reason, the proposed consent agreement and order includes several safeguards. For example, Part II of the proposed consent agreement and order requires Henry Schein to mail individual notices to consumers, including dental practices, that purchased Dentrax G5 prior to January 2014, informing them that Dentrax G5 uses a less complex encryption algorithm to protect patient data than AES, which is recommended as an industry standard by NIST. Providing individual notice in this fashion ensures that those customers most likely to have been deceived by Henry Schein's misrepresentations understand the scope of data protection offered by Dentrax G5 and its limitations in helping dentists satisfy their security obligations under HIPAA. Part II also requires that Henry Schein establish a toll-free telephone number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

Finally, according to your comment, you believe that the proposed consent agreement and order should also apply to Henry Schein's parent company, Henry Schein, Inc. The Commission appreciates your comment. Although the Commission's actions in this matter partially rely on non-public information gathered in the underlying investigation, the Commission carefully considered the issues you have raised, including the appropriate scope of corporate liability for the conduct alleged, prior to accepting the draft complaint and the proposed consent agreement and order for public comments.²

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

¹ See also 16 C.F.R. § 1.98(c).

² See, e.g., *United States v. Bestfoods*, 524 U.S. 51, 55 (1998) (“[A] corporate parent that actively participated in, and exercised control over, the operations of the facility itself may be held directly liable in its own right as an operator of the facility.”); *id.* at 68 (“Control of the subsidiary, if extensive enough, gives rise to indirect liability under piercing doctrine ...”) (citing Lynda Oswald, “Bifurcation of Owner and Operator Analysis Under CERCLA: Finding Order in the Chaos of Pervasive Control”, 72 Wash. U. L.Q. 223, 269 (1994)).

By direction of the Commission.

Donald S. Clark
Secretary



Office of the Secretary

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

May 20, 2016

Darrell K. Pruitt, DDS
State of Texas

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Dr. Pruitt:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrrix G5 software ("Dentrrix G5") provides industry-standard encryption, and that Dentrrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrrix G5 offers industry-standard encryption; (2) the ability of Dentrrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment expresses general support for the Commission's action and you do not propose any revisions to the draft complaint or proposed consent agreement and order.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are

available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary



Office of the Secretary

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

May 20, 2016

Justin Shafer
Onsite Dental Systems
State of Texas

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Mr. Shafer:

Thank you for your comments on behalf of Onsite Dental Systems regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law

violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).



Office of the Secretary

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

May 20, 2016

Smith
State of New York

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Commenter Smith:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

First, your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law violation. Accordingly, under the proposed consent agreement and order, Henry Schein is

required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

Second, your comment suggests that the order include additional notice obligations to make all patients aware of Henry Schein's practices. Part II of the proposed consent agreement and order requires Henry Schein to mail individual notices to consumers, including dental practices, that purchased Dentrrix G5 prior to January 2014, informing them that Dentrrix G5 uses a less complex encryption algorithm to protect patient data than AES, which is recommended as an industry standard by NIST. Providing individual notice in this fashion ensures that those customers most likely to have been deceived by Henry Schein's misrepresentations understand the scope of data protection offered by Dentrrix G5 and its limitations in helping dentists satisfy their security obligations under HIPAA. Part II also requires that Henry Schein establish a toll-free telephone number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).



Office of the Secretary

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

May 20, 2016

Sporborg
Commonwealth of Massachusetts

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Commenter Sporborg:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment expresses concern that the monetary relief in the proposed consent agreement and order is insufficient and proposes that Henry Schein compensate dentists for the costs of upgrading or replacing their software. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. Please note that the Commission's proposed complaint in this matter alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to

the law violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).



Office of the Secretary

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

May 20, 2016

Sarah Tyberg
Dental Care of Sherwood
State of Oregon

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Ms. Tyberg:

Thank you for your comment on behalf of Dental Care of Sherwood regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises two issues. First, you express confusion about whether your office is among the customers Henry Schein will be required to notify under Part II of the proposed consent agreement and order, and ask that the order impose additional notice obligations. Specifically, you propose that the Commission require Henry Schein to notify "all users of Dentrix G5 software, not just a select group." The issue of notice is important. For this reason, the proposed consent agreement and order includes several safeguards. For example, Part II of the proposed consent agreement and order requires Henry Schein to mail individual notices to consumers, including dental practices, that purchased Dentrix G5 prior to January 2014, informing them that Dentrix G5 uses a less complex encryption algorithm to protect patient data

than AES which is recommended as an industry standard by NIST. Accordingly, if your office purchased Dentrrix G5 prior to January 2014, Henry Schein would be required to provide individual corrective notice to you. Providing individual notice in this fashion ensures that those customers most likely to have been deceived by Henry Schein's misrepresentations understand the scope of data protection offered by Dentrrix G5 and its limitations in helping dentists satisfy their security obligations under HIPAA. Part II also requires that Henry Schein establish a toll-free telephone number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

Second, your comment expresses concern that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).