Analysis of Proposed Consent Order to Aid Public Comment
***In the Matter of Google Inc.*, File No. 122 3237**

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an agreement containing a consent order from Google Inc. ("Google").

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

Google bills consumers for charges related to activity within software applications ("apps") that consumers download to their mobile devices from Google's Google Play store. This matter concerns Google's billing for charges incurred by children in apps that are likely to be used by children without having obtained the account holders' express informed consent.

The Commission's proposed complaint alleges that Google offers thousands of apps, including games that children are likely to play, and that in many instances, children can obtain virtual items within a game app that cost money. Google bills parents and other adult account holders for items that cost money within an app—"in-app charges." In connection with billing for children's in-app charges, Google in many instances did not request a password or other method to obtain account holder authorization. Currently, in connection with billing for children's in-app charges, Google only sometimes requests a parent's Google password. In many instances, once the password is entered, Google begins a thirty-minute window during which purchases can be made by children without further action by the account holder. During this process, Google in many instances has not informed account holders that password entry will approve a charge or initiate a thirty-minute window during which children using the app can incur charges without further action by the account holder. The Commission's proposed complaint alleges that, through these practices, Google often has failed to obtain parents' informed consent to charges incurred by children, which constitutes an unfair practice under Section 5 of the FTC Act.

The proposed order contains provisions designed to prevent Google from engaging in the same or similar acts or practices in the future. Part I of the proposed order requires Google to obtain express, informed consent to in-app charges before billing for such charges, and to allow consumers to revoke consent to prospective in-app charges at any time. As defined in the proposed order, express, informed consent requires an affirmative act communicating authorization of an in-app charge (such as entering a password), made proximate to both an in-app activity for which Google is billing a charge and a clear and conspicuous disclosure of material information about the charge. Under the definition, the act and disclosure must be reasonably calculated to ensure that the person providing consent is the account holder (as opposed to the child). The proposed order would require the disclosure to appear at least once per mobile device.

Part II of the proposed order requires Google to provide full refunds to Google account holders who have been billed by Google for unauthorized in-app charges incurred by minors, for a year following entry of the order. If Google's refunds total less than $19 million, Google will remit any remaining balance to the Commission to be used for informational remedies, further redress, or payment to the U.S. Treasury as equitable disgorgement. To effectuate refunds, Google must send an electronic notice to its consumers that clearly and conspicuously discloses the availability of refunds and instructions on how to obtain such refunds. Within 30 days of the end of the one-year redress period, Google must provide the Commission with records of refund requests, refunds paid, and any refunds denied.

Parts III through VII of the proposed order are reporting and compliance provisions. Part III of the proposed order requires Google to maintain and upon request make available certain compliance-related records, including certain consumer complaints and refund requests, for a period of five years. Part IV is an order distribution provision that requires Google to provide the order to current and future principals, officers, and corporate directors, as well as current and future managers, employees, agents, and representatives who participate in certain duties related to the subject matter of the proposed complaint and order.

Part V requires Google to notify the Commission of corporate changes that may affect compliance obligations within 14 days of such a change. Part VI requires Google to submit a compliance report 90 days after entry of the order. It also requires Google to submit additional compliance reports within 10 business days of a written request by the Commission. Part VII is a provision "sunsetting" the order after 20 years, with certain exceptions.

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