



Office of the Secretary

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

October 13, 2011

Beth Givens  
Director  
Privacy Rights Clearinghouse  
3100 5th Ave. Ste. B  
San Diego, CA 92103

*Re: In the Matter of Google Inc., File No. 1023136, Docket No. C-4336*

Dear Director Givens:

Thank you for your comment on behalf of Privacy Rights Clearinghouse (“PRC”) on the Federal Trade Commission’s 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 FTC appreciates PRC’s support of the consent order. Your comment suggests that the order define “express affirmative consent” more specifically, and advocates adding requirements for the comprehensive privacy program required under Part III of the proposed order. Your comment also mentions how closely PRC works with consumers, to educate individuals and advocate for privacy.

The Commission is committed to protecting consumer privacy and believes that the proposed order contains strong relief for Google Inc.’s (“Google”) customers. Specifically, we believe that Part II of the order provides appropriate relief, given the facts and circumstances of this case, by mandating that the company give Google users clear and prominent notice and obtain express affirmative consent prior to sharing their identified information with any third party in connection with a change to any product or service, where such sharing is contrary to stated sharing practices in effect at the time of collection.

As you note in your comment, the proposed order contains other provisions designed to ensure that Google use reasonable and appropriate procedures to protect the privacy and confidentiality of users’ “covered information.”<sup>1</sup> The proposed consent order mandates that

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<sup>1</sup> “Covered Information” is defined in the order as “information respondent [Google] collects from or about an individual, including, but not limited to, an individual’s: (a) first and last name; (b) home or other physical address, including street name and city or town; (c) email address or other online contact information, such as a user identifier or screen name; (d) persistent identifier, such as IP address; (e) telephone number, including home telephone number and mobile telephone number; (f) list of contacts; (g) physical location; or any other information from or about an individual consumer that is combined with (a) through (g) above.”

Google establish and maintain a comprehensive privacy program that addresses privacy risks related to new and existing products and services. While the proposed order sets forth several elements that the privacy program must include, some flexibility is afforded with regard to its implementation. This approach allows innovation in the area of privacy-enhancing technologies, such as methods for obtaining express affirmative consent, and is designed to keep pace with a dynamic marketplace. In particular, the privacy program must contain controls and procedures appropriate to Google's size and complexity that reflect the sensitivity of data handled, the scope and nature of Google's business activities, and the types of risks the company faces. To the extent that reasonably foreseeable, material risks arise from Google's products, services, and business practices, Google must use reasonable and appropriate procedures to address these risks or it could face substantial civil penalties.

Furthermore, Google must obtain an assessment and report from a qualified, independent third-party professional, certifying that Google has in place a privacy program that provides protections that meet or exceed the protections required by the order, every other year for twenty years. To the extent that past misrepresentations occurred because Google had failed to implement reasonable and appropriate procedures to protect privacy, the Commission believes the proposed order will address this issue going forward.

In the future, if during your interactions with individual consumers anyone has specific information suggesting that Google is not maintaining reasonable security of user information, please encourage him or her to contact the Consumer Response Center at (877) 282-4357 or file a complaint online at [www.ftccomplaintassistant.gov](http://www.ftccomplaintassistant.gov).

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order 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>. It helps the Commission's analysis to hear from a variety of sources in its work, and it thanks you again for your comment.

By direction of the Commission.

Donald S. Clark  
Secretary