



Office of the Secretary

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

July 29, 2008

Mr. Marc Rotenberg
Executive Director
Electronic Privacy Information Center
1718 Connecticut Avenue, NW, Suite 200
Washington, DC 20009

*Re: In the Matter of The TJX Companies, Inc., File No. 072-3055, Docket No. C-4227
In the Matter of Reed Elsevier Inc. et al., File No. 052-3094, Docket No. C-4226*

Dear Mr. Rotenberg:

This acknowledges your letter commenting on the Federal Trade Commission's consent agreements in the above-entitled proceedings. Your letter was placed 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 was given serious consideration by the Commission.

Your comment encourages the Commission to impose civil monetary penalties in its orders against The TJX Companies, Inc. ("TJX") and Reed Elsevier Inc. and Seisint, Inc. (collectively, "REI/Seisint"). The complaints in these matters allege violations of Section 5 of the Federal Trade Commission Act ("FTC Act"), which does not authorize the Commission to obtain civil monetary penalties under these circumstances.¹ Should any of the respondents violate the terms of the final orders, however, they would be liable for civil monetary penalties of up to \$11,000 per violation, pursuant to Section 5(l) of the FTC Act. Such penalties would serve to deter future violations, consistent with the goals noted in your letter. In addition, with respect to future cases, the Commission has recommended, both on its own and as part of the President's Identity Theft Task Force, that Congress provide the Commission with civil penalty authority in data security cases to enhance its enforcement efforts further.²

¹ Your comment notes that civil penalties were included in the Commission's settlement with ChoicePoint, Inc. ("ChoicePoint"). The ChoicePoint case involved credit reports and thus alleged violations of the Fair Credit Reporting Act ("FCRA"), which authorizes civil penalties. Unlike that case, the current matters do not involve credit reports.

² See *Prepared Statement of the Federal Trade Commission Before the Committee on Commerce, Science, and Transportation, United States Senate* (April 8, 2008), at 9-12, available at <http://www.ftc.gov/os/testimony/P034101reauth.pdf>; The President's Identity Theft Task

After reviewing your comment, and the other submitted comment, the Commission has determined that the public interest would be best served by accepting the consent order. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary