

4. In conducting its business, respondent routinely obtains information from or about its customers, including, but not limited to, name; telephone number; address; date of birth; bank account number; payment card account number and expiration date; prescription information, such as medication and dosage, prescribing physician name, address, and telephone number, health insurer name, and insurance account number and policy number; and Social Security number (collectively, “personal information”). Respondent also collects personal information from or about employees and job applicants, including, but not limited to, Social Security number.
5. Respondent operates computer networks in its pharmacies, corporate headquarters, and distribution centers. Among other things, respondent uses the networks to fill orders for prescription medicines and supplies; process sales, including to obtain authorization for payment card and insurance card transactions; and aggregate, store, and transmit personal information.

RESPONDENT’S REPRESENTATIONS

6. Respondent has disseminated or caused to be disseminated statements and privacy policies to consumers regarding the privacy and confidentiality of personal information, including, but not limited to:
 - a. From at least 2003, the following statement in its Notice of Privacy Practices:

Rite Aid takes its responsibility for maintaining your protected health information in confidence very seriously. Protected health information means information about you that may identify you and that relates to your past, present or future physical or mental health or condition and related health care services. It also includes basic demographic information. We are required by law to maintain the privacy of protected health information and to provide you with a Notice of Privacy Practices including our legal duties with respect to protected health information. (*See Exhibit A*).
 - b. From at least 2004, the following statement in a brochure seeking its customers’ medical history:

Although you have the right not to disclose your medical history, Rite Aid would like to assure you that we respect and protect your privacy. (*See Exhibit B*.)

RESPONDENT'S SECURITY PRACTICES

7. Respondent has engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for personal information. Among other things, respondent has failed to: (1) implement policies and procedures to dispose securely of such information, including, but not limited to, policies and procedures to render the information unreadable in the course of disposal; (2) adequately train employees to dispose securely of such information; (3) use reasonable measures to assess compliance with its established policies and procedures for the disposal of such information; and (4) employ a reasonable process for discovering and remedying risks to such information.
8. As a result of the failures set forth in Paragraph 7, respondent discarded materials containing personal information in clear readable text (such as pharmacy labels and employment applications) in unsecured, publicly-accessible trash dumpsters used by Rite Aid pharmacies on numerous occasions. For example, in late 2006 and continuing into 2007 and 2008, television stations and other media outlets reported finding personal information in unsecured dumpsters used by Rite Aid pharmacies in at least 7 cities throughout the United States. The personal information found in the dumpsters included information about respondent's customers and job applicants. Information discarded in publicly-accessible dumpsters could be misused to commit identity theft or to steal prescription medicines.

VIOLATIONS OF THE FTC ACT

9. Through the means described in Paragraph 6, respondent represented, expressly or by implication, that it implemented reasonable and appropriate measures to protect personal information against unauthorized access.
10. In truth and in fact, respondent did not implement reasonable and appropriate measures to protect personal information against unauthorized access. Therefore, the representation set forth in Paragraph 9 was, and is, false or misleading.
11. As set forth in Paragraph 7, respondent failed to employ reasonable and appropriate measures to prevent unauthorized access to personal information. Respondent's practices caused, or are likely to cause, substantial injury to consumers that is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. This practice was, and is, an unfair act or practice.

12. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this ___ day of _____, 2010 has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary