



Office of the Secretary

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

August 30, 2012

Commenter Wilborn
State of Arizona

Re: In the Matter of Myspace LLC, File No. 1023058, Docket No. C-4369

Thank you for your comment regarding 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.

Your comment urges the Commission to impose a fine on Myspace LLC ("Myspace"). The complaint in this matter alleges violations of Section 5 of the FTC Act, under which the Commission does not have authority to seek civil penalties. However, the Commission is committed to safeguarding consumer privacy and believes the proposed order provides strong protections for Myspace users. In particular, the proposed order requires Myspace to establish and maintain a comprehensive privacy program and to obtain biennial privacy audits by an independent third-party professional for twenty years. The privacy program and assessments called for under the order will require a significant investment by Myspace. Further, Myspace is prohibited from misrepresenting the privacy and confidentiality of any covered information, including the purposes for which it collects and discloses covered information, as well as the extent to which it makes or has made covered information accessible to third parties. Myspace also is prohibited from misrepresenting its adherence to any privacy, security, or other compliance program.

Further, we appreciate your concern that the settlement does not require Myspace to give up any potential monetary gains from the conduct challenged in the Commission's proposed complaint. In deciding whether to accept this or any other consent order that does not impose monetary relief, the Commission carefully considers a variety of factors, including the time and expense to litigate a dispute and the type of monetary relief authorized by law. The Commission also takes into account that, as soon as the order becomes final, Myspace will risk civil penalties of up to \$16,000 per violation of any term of the order, or up to \$16,000 per day in the case of continuing violations (as provided by Section 5(l) of the FTC Act). It is our expectation that the prospect of such substantial civil penalties – which Myspace does not face absent this order – will have a significant deterrent effect on the company's future conduct.

In the future, if you have specific information suggesting that Myspace is not maintaining reasonable privacy or security for user information, you may contact the FTC's Consumer Response Center at (877) 282-4357, or file a complaint online at 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. The Commission thanks you again for your comment.

By direction of the Commission, Commissioner Ohlhausen not participating.

Donald S. Clark
Secretary