



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

Bureau of Consumer Protection

May 24, 2001

Mr. Jason Catlett
President
Junkbusters Corp.
P.O. Box 7034
Green Brook, NJ 08812

Mr. Marc Rotenberg
Executive Director
Electronic Privacy Information Center
1718 Connecticut Ave., N.W.
Suite 200
Washington, D.C. 20009

Re: Petition Requesting Investigation of and Enforcement Action Against Amazon.com

Dear Mr. Catlett and Mr. Rotenberg:

On December 4, 2000, Junkbusters Corp. and the Electronic Privacy Information Center filed a joint petition requesting that the Federal Trade Commission ("FTC") investigate whether Amazon.com ("Amazon") deceived consumers in its representations about privacy and the circumstances under which Amazon might disclose information about its customers.

In reviewing the petition, FTC staff considered whether Amazon, under its revised privacy policy, changed its practices with respect to its collection and use of personal information in a way that was deceptive or unfair in violation of Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45.(1) Based upon information we received from Amazon concerning its actual information disclosure practices, including correspondence attached to this letter as Exhibit A, staff believes that Amazon's revised privacy policy does not materially conflict with representations Amazon made in its previous privacy policy and that it likely has not violated Section 5 of the FTC Act.(2)

Amazon's previous privacy policy stated that "Amazon.com does not sell, trade, or rent your personal information to others. We may choose to do so in the future with trustworthy third parties, but you can tell us not to by sending a blank e-mail message to never@amazon.com." Exhibit B at 2. You are concerned that under its revised privacy policy, Amazon may now disclose personal information about consumers who previously selected "never." Amazon has assured us that, despite the ambiguity of its revised policy on this issue, it will not disclose to third parties any personal information concerning consumers who previously selected "never."

Moreover, Amazon has informed the FTC that it has never sold, traded, or rented the personal information of any of its customers, even those customers who did **not** e-mail never@amazon.com, and it will not do so without notice to its customers and an opportunity for them to choose not to have their information shared. Exhibit A at 2-3.

Although Amazon's revisions to its privacy policy are subject to various interpretations, Amazon's letter describes its actual practices. It thus does not appear that Amazon has violated Section 5 of the FTC Act by making material changes in its previously disclosed information collection and disclosure policies. We would expect that in the event of a material change to its stated privacy practices, Amazon would provide adequate notice to customers as well as a mechanism to obtain consumers' consent to the change with respect to information already collected from them. In addition, we of course would urge Amazon and others developing their privacy policies to make their policies clear and understandable to consumers.

We appreciate your bringing this matter to our attention. Petitions from groups such as yours are a helpful means of reviewing possible unfair or deceptive practices, and we hope you will continue to bring to our attention any practices that you believe may violate the FTC Act.

Sincerely,

Jodie Bernstein
Director

1. Section 5 of the FTC Act prohibits unfair or deceptive practices that are in or affecting commerce. A representation, omission or practice is deceptive if it is likely to mislead reasonable consumers in a material fashion. See FTC Policy Statement on Deception, appended to Cliffdale Associates, Inc., 103 F.T.C. 110, 174 (1984). A practice is unfair under Section 5 if it causes, or is likely to cause, substantial injury to consumers which is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

2. This letter represents the views of the staff and does not necessarily represent the views of the Commission or any individual Commissioner.