



August 10, 2011

Federal Trade Commission
Office of the Secretary, Room H-113 (Annex I)
600 Pennsylvania Avenue, N.W.
Washington, DC 20590

Re: Dot Com Disclosures - Project No.: P114506

Dear Sir/Madame:

This letter is submitted on behalf of PayPal, Inc. ("PayPal"), in response to the Federal Trade Commission ("FTC" or "Commission") on its Dot Com Disclosures ("DCD") guidance document. We commend and support the FTC's efforts to update and revise this document and appreciate the Commission's foresight to engage stakeholders at the beginning of the revision process.

PayPal is a leading online payments company, available in 190 countries with nearly 100 million active user accounts, supporting payments in 25 currencies. Headquartered in San Jose, California, PayPal has offices in several other states, along with its international headquarters in Singapore and European headquarters in Luxembourg. PayPal's payment solution connects into and leverages traditional payment networks, enabling its users to make and receive both personal and purchase payments in a safer, more efficient and cost effective manner.

PayPal appreciates the opportunity to submit the following comments about the potential implications of a revised DCD business guideline and thanks the Commission for its consideration of the concerns and suggestions set forth below.

The Commission has requested comments on a number of questions and we would like to provide our thoughts on the following:

1. What issues have been raised by online technologies or Internet activities or features that have emerged since the business guide was issued (e.g. mobile marketing, including screen size) that should be addressed in a revised guidance document? What issues raised by new technologies or Internet activities or features on the horizon should be addressed in a revised business guide?

Major advancements in technology and increased internet usage have occurred since the FTC first issued the initial DCD in 2000. At that time, it was impossible for the FTC to consider the technological inventions that are the norm today and have the foresight to implement the appropriate guidelines to assist businesses in disclosing their advertisements online.

These new technologies are premised on user convenience and upgraded versions that emphasize small compact sizes, high speed internet, and intuitive design, all of which are crucial aspects of staying competitive in the global market. Smart phones, tablets, and other hand held mobile media are now a primary source of both communication and commerce for many people. The advent of these new products and an increased dependency on the internet necessitates the review of the current DCD to consider how to best implement guidelines for disclosures in internet advertising.

Compact mobile devices have much smaller screens than the traditional desktop or laptop, which the FTC considered in their initial guidelines. Small screen sizes may introduce disclosure issues as a result of this limited space such as hyperlinking and the ability to scroll for terms and conditions. As such, we ask the Commission to provide appropriate, yet reasonable, guidance for smaller screens and mobile technology, so that businesses can continue to progress and remain competitive in the ecommerce marketplace.

7. What guidance in the original “Dot Com Disclosures” document is outdated or unnecessary?

One emphasis of the current business guidelines is to ensure that disclosures are clear and conspicuous to the consumer so that he/she will be aware of the terms and conditions involved in internet activity. According to the initial guidelines, online advertisers are advised to consider the proximity, prominence, and placement of the disclosure as well as the ad’s propensity to distract viewers and the repetition of the disclosure to meet the threshold of clear and conspicuous

Proximity, placement, and prominence are appropriate criterion that advertisers should consider when directing consumers to requisite disclosure information and these considerations should continue to be emphasized in the revised guidelines. However, encouraging the repetition of a disclosure may potentially be counterproductive to the ultimate goal of integrating clear and conspicuous disclosures. On page thirteen of the current Dot Com Disclosure, the FTC suggests that “repeating a disclosure makes it more likely that a consumer will notice and understand it”. Emphasis should be placed on clarity rather than repetition. If a consumer is inundated with multiple disclosures, he/ she may be distracted, overwhelmed, and/or desensitized with the repetitive information, and subsequently forgo viewing the disclosure entirely. The FTC should strike the suggestion that disclosures need to be repetitive in order to be clear and conspicuous in their revised business guidelines and supplant this suggestion with an emphasis on clarity.

8. What guidance in “Dot Com Disclosures” should be clarified, expanded, strengthened, or limited?

The revised business guidelines should continue to require that online advertisement disclosures are clear and conspicuous to the consumer. The initial DCD set forth a broad guide for online advertisements, allowing enough guidance for online ads to fulfill disclosure requirements to protect the consumer and not hinder industry by mandating



restrictions that are too burdensome for compliance. The FTC should continue this approach in the revised guidelines; striking a successful balance between suggesting how advertisements may most effectively assist the consumer and at the same time supporting economic innovation in the growing activity of e-commerce.

Internet usage is a perpetually evolving technology. Broad guidelines that give businesses ideas on how to best disclose information is the most effective manner to ensure that consumers are provided adequate information. Strict guidelines would require continuous revisions because it is impossible to anticipate future innovations. Although the business guidelines are not binding, many businesses will reference, consider, and most likely integrate the FTC's revised disclosure guidelines in an attempt to comply with best business practices. Therefore, the FTC has a profound opportunity to impact e-commerce in a positive and productive manner by issuing guidelines that support business development.

Further, the mock ads in the appendix of the original DCD provide an effective and straightforward way to interpret the FTC's suggestions. The revised business guidelines should also include examples of "dos" and "don'ts" for online advertisement disclosures.

Thank you for allowing us to share our comments regarding the revision of the Dot Com Disclosures business guidelines. While the initial business guidelines certainly need some updating in order to address advancements in technology, the revised guidelines should remain broad, thereby accommodating future unforeseen innovations and not requiring constant revisions as new products enter the market. We are confident that the Commission will construct a reasonable set of guidelines that will strike the appropriate balance between regulation and progress.

Sincerely,

—
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