



February 18, 2011

Donald S. Clark
Secretary
Federal Trade Commission
Office of the Secretary
Room H-113 (Annex W)
600 Pennsylvania Ave., N.W.
Washington, DC 20580

Re: FTC File No. P095416: Comments of Zynga Inc., on the Preliminary Staff Report Entitled, *Protecting Consumer Privacy in an Era of Rapid Change: A Proposed Framework for Businesses and Policymakers*

Dear Mr. Clark:

Zynga Inc. hereby submits these comments on the Federal Trade Commission (Commission) Staff's preliminary report entitled, *Protecting Consumer Privacy in a Era of Rapid Change: A Proposed Framework for Businesses and Policymakers*. Zynga appreciates the Staff's efforts to identify issues and potential solutions by inviting participation by all interested stakeholders. Zynga's purpose in submitting these comments is to provide the perspective of a leader in the emerging industry of applications, both online and mobile.

I. Zynga and the Online Applications Industry

Zynga is the largest Facebook application developer in the world. Zynga's focus is on social games, which are online games in which players can play together and share their accomplishments and progress through the games over the Internet. Zynga's games include, among others: FarmVille, our flagship game, where players can build a farm and help neighbors with their farms; CityVille, our newest game (with nearly 100 million monthly active users since launch in December 2010), where players can build a city and interact with friends via franchises; CafeWorld, where players can build and run a restaurant hiring friends in the process; FrontierVille, where players can clear land and build a homestead; and ZyngaPoker, where players play live poker with friends and others from around the world.



Founded in October 2007, the company has enjoyed explosive growth, notwithstanding the economic crisis that took such a heavy toll on many industries. As of February 15, 2011, Zynga's game applications comprise five of the top ten Facebook applications or "apps". Zynga's monthly active user base is about seven *times* that of the nearest competitor, and more than the next 16 largest application developers *combined*.¹ Zynga's games have over 60 million daily active users and over 275 million monthly active users.² The company is well on its ways to meeting its mission to *connecting the world through games*.

Zynga's games are played primarily on Facebook. They are also available on MySpace, Bebo, Yahoo! Pulse, and on mobile devices including the iPhone, iPad, iPod Touch, and various devices using the Android operating system.

II. Comments

A. Zynga Supports The Staff's Endorsement of Privacy by Design

The application industry is still in its infancy. Zynga itself has only been in existence for less than four years. As the industry leader, Zynga believes that fostering consumer trust in the industry is crucial to the industry's success. We further believe that consumer trust must be earned and maintained over the long term. It is for this reason that we think that privacy by design is critical to the industry's (and, by extension, Zynga's) success. Good privacy practices engender trust, and trust is good for business.

We agree with the Staff that privacy should be considered from the development stage of a product, service, or feature. This means incorporating clear and conspicuous notice, meaningful choice, reasonable collection limits, data accuracy and, of course, data security into the product, service, or feature; and supporting that with sound retention practices, designated personnel for privacy matters, and privacy training. As the product, service, or feature evolves over time, privacy should be part of the evolution process.

B. Zynga Supports the Creation of Self-Regulatory Best Practices

The Commission's Staff Report is couched in the form of best practices for business. In fact, in a recent interview, David Vladek, the Director of the Commission's Bureau of

¹ Source: www.appdata.com (last visited February 15, 2011).

² *Id.*



Consumer Protection, stated, “We wrote the report to lay out, as clearly as we could, what we thought best practices would look like for privacy.”³ The Report could not have come at a better time for the application industry, which, while still in its’ nascency, is growing so rapidly that the time to develop and evangelize a set of best practices is now.

Zynga is committed to fostering the development of a set of best practices for all app developers to follow –“app accords.” We urge other app developers and the platforms to join us.⁴ We believe that the Commission Staff’s preliminary report should serve as one of the foundational documents supporting that effort. The benefits of creating a set of best practices are obvious: they will provide a benchmark for developers of all sizes to use in creating new apps and features; they will be adaptable to future developments in technology and business practices; and they will be available to developers and platforms alike. The last point is especially significant: while Zynga has grown exponentially, there are literally hundreds of thousands of developers, many of whom are small one-or two-person operations, that will benefit from a well-considered set of best practices. We feel that the “app accords” could be crucial in advancing Privacy by Design with the long tail of application developers.

Zynga cannot do all of this alone. Nor should it. The effort must include other application developers and the platforms. Accordingly, Zynga calls on all interested application developers and platforms to join it to develop consensus around best practices, and then, subsequently to engage in education and outreach efforts to app developers, platforms, and consumers. The ecosystem is interrelated: apps sit on platforms, meaning that cooperation between apps and platforms towards a set of best practices is thus not only highly desirable, but also necessary as a practical matter. Apps must abide by developer terms and consumers’ expectations on the one hand, while in some cases, at least, the platforms are in the best position to effect technical solutions. These solutions may be able to enhance user privacy and awareness while addressing common challenges faced by hundreds or thousands of application developers. Zynga can offer space and organizational resources for meetings to support this effort.

The Preliminary Report asks, “What role should government and industry associations have in educating businesses?” In the case of the app industry, forming a consensus

³ *U.S. Federal Trade Commission Officials See Game-Changing Proposals In Agency’s Recent Privacy Report*, available at http://news.bna.com/wdpn/WDPNWB/split_display.adp?fedfid=19480156&vname=wdprunotallissues&fn=19480156&jd=19480156&lf=eml&emc=wdp:wdpn:107 (February 4, 2011).

⁴ Some good work is being done by nonprofit groups already, and Zynga supports that work.



among apps and platforms is the first step toward educating business large and small about the importance of fostering a culture of privacy, which will itself foster a culture of trust among consumers.

C. Zynga Supports Creative Ways to Make Privacy Practices Transparent

The preliminary Report asks, “How can individual businesses, industry associations, consumer groups, and government do a better job of informing consumers about privacy?” Zynga’s response is simple, and draws from another Commission question that has often been asked: “why doesn’t industry use its creative talents to make privacy practices more accessible?”

Zynga agrees that industry can do a better job communicating privacy practices to consumers. To that end, Zynga is working on a way to use its creative talents for designing fun, easy-to-play games to design a game-like experience for consumers to learn about, and to provide feedback on, Zynga's privacy practices. Use of this mechanism will be incented with game (virtual) currency to make use of the tool in the consumer's interest. As far as we know, this tool will be the first of its kind, and we are excited about it. Going forward, we expect to use the mechanism as a means not only to disseminate information, but also to get user feedback, so that we can continue to improve our communications with users and to hone our practices so that they are in line with our users’ expectations. We also intend to use metrics to see how the new resource is used so that, just as we continue to improve our game experiences, we can continue to improve the look, feel, usability, and effectiveness of the privacy tool.

Zynga encourages others to think creatively about getting their privacy messages to consumers using their own talents.

III. Conclusion

Zynga is excited about its future and the future of the app industry as a whole. The industry is dynamic, hugely popular with consumers, and growing explosively. Now is the time for the industry to take steps to ensure that consumer trust grows in parallel with consumer enthusiasm. A key part of maintaining this trust depends on all of the developers and platforms respecting consumers’ expectations and choices, and another is developing best practices that all players in the industry can follow. Zynga is a new company, but it is also a company that has matured quickly and that is ready to serve as a



catalyst for, and one of the leaders of, the development of a consensus on best practices for app privacy. We encourage others to join us and will continue to work on leading by example in the meantime.

We thank the Commission for its deep interest in consumer privacy and agree with the Commission that good privacy is also good business. We look forward to serving as an educational resource for the Commission on the app industry, to helping to bring together the app industry to drive towards best practices specific to our industry, and to laying the trust foundation now that will allow the app industry to grow, innovate, and thrive for years to come.

Sincerely,

Reggie Davis
General Counsel

cc: D. Reed Freeman, Jr., Esq., Morrison & Foerster LLP