

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Joseph J. Simons, Chairman**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

FTC Matter No. **P195402**

ORDER TO FILE A SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission (“FTC” or “the Commission”) dated [DATE], entitled “Resolution Directing Use of Compulsory Process to Collect Information Regarding ISP Privacy,” a copy of which is enclosed, [COMPANY NAME], hereinafter referred to as the “Company,” is ordered to file with the Commission, no later than 45 days after date of service, a Special Report containing the information and Documents specified herein.

The Commission is seeking to compile data concerning the privacy policies, procedures, and practices of Internet Service Providers and related entities, including the method and manner by which they collect, retain, use, and disclose information about consumers and their Devices. The Special Report will assist the Commission in conducting a study of such policies, practices, and procedures.

The Special Report must restate Each item of this Order with which the corresponding answer is Identified. Your report is required to be subscribed and sworn by an official of the Company who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in Your possession. If any question cannot be answered fully, give the information that is available and explain in what respects and why the answer is incomplete. The Special Report and all accompanying documentary responses must be Bates-stamped.

Confidential or privileged commercial or financial information will be reported by the Commission on an aggregate or anonymous basis, consistent with Sections 6(f) and 21(d) of the FTC Act. Individual submissions responsive to this Order that are marked “confidential” will not be disclosed without first giving the Company ten (10) days notice of the Commission’s intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act.

SPECIFICATIONS

Please produce the following information, Documents, and items, consistent with the definitions, instructions, and formatting requirements contained in Attachment A:

Identification of Report Author:

1. Identify the full name, business address, telephone number, and title of the person(s) who has prepared or supervised the preparation of the Company's response to this Order and Describe in Detail the steps taken by the Company to respond to this Order. For Each specification, Identify the individual(s) who assisted in preparation of the response. Produce a list of the persons (Identified by name and corporate title or job description) whose files were searched and Identify the person who conducted the search.

Company Information:

2. State the Company's complete legal name and all other names under which it has done business, its corporate mailing address, all addresses from which it does or has done business, and the dates and states of its incorporation.
3. Describe the Company's corporate structure, and state the names of all parents, subsidiaries, divisions, branches, joint ventures, franchises, operations under assumed names, and websites over which it exercises supervision or control. For Each such entity, Describe in Detail the nature of its relationship to the Company and the date it was created, acquired, sold, or otherwise changed ownership or control. Produce organizational charts sufficient to detail the Company's corporate structure.
4. Describe in Detail Each Company program or service that collects, transmits, receives, stores, maintains, uses, or discloses Personal Information about consumers.
5. For Each program or service Identified in Specification 4, Describe in Detail its Ad Services, if any, including whether such Ad Services rely on information about users and their Devices from Third Parties. If so, Identify those sources.
6. For Each program or service Identified in response to Specification 4, broken down by month, state the total number of: (1) subscribers; and (2) unique consumers targeted, tracked, or otherwise Identified by its Ad Services.

Data Collection, Retention, Use, and Disclosure:

7. List the categories of Personal Information collected about consumers or their Devices by Each program or service Identified in Specification 4. For Each category of Personal Information, Describe in Detail:
 - a. the purpose(s) for which the information is collected or used;
 - b. how such information is used or has been used;
 - c. the techniques used to collect such information;
 - d. the sources from which such information is obtained. If the information is obtained from a Third Party: (i) Identify Each Third Party that provided or disclosed such information; (ii) Describe in Detail the types of information obtained from Each Third Party; (iii) produce Documents sufficient to detail the types of information obtained and the manner it was or is obtained (e.g., table, spreadsheet, database); and (iv)

- Describe in Detail any contractual or technical restrictions or limitations placed on the collection, retention, use, or disclosure of such information;
- e. how such information is combined with other types of information about consumers and their Devices. Produce Documents sufficient to detail how the combined information is maintained or stored (e.g., table, spreadsheet, database) by Each program or service;
 - f. how long the information is retained and whether it is destroyed at the end of the retention period. Produce Documents sufficient to detail any deletion or retention policies, practices, or procedures;
 - g. whether such information is disclosed to any Third Party, including on a limited, trial, or test basis. If so: (i) Identify Each Third Party that receives or has received such information; (ii) Describe in Detail the types of information disclosed to Each Third Party; (iii) provide Documents sufficient to detail the types of information received and the manner it was or is received (e.g., table, spreadsheet, database); and (iv) Describe in Detail any contractual or technical restrictions or limitations placed on the collection, retention, use, or disclosure of such information;
 - h. any internal policies, practices, or procedures regarding access controls or use restrictions to consumers' Personal Information by employees or service providers; and
 - i. any privacy assessments used to evaluate the risks associated with the collection, retention, use, or disclosure of such information. Produce a copy of Each assessment.
8. To the extent any program or service Identified in Specification 4 uses "aggregated," "anonymized," or "deidentified" information about consumers and their Devices, Describe in Detail:
- a. how the program or service defines aggregated, anonymized, or deidentified information;
 - b. the processes and techniques Each program or service uses to aggregate, anonymize, or deidentify such information;
 - c. the types of information about consumers and their Devices that Each program or service aggregates, anonymizes, or deidentifies;
 - d. how Each program or service uses such information;
 - e. whether Each program or service discloses aggregated, anonymized, or deidentified information to Third Parties. If so, Identify Each Third Party that receives such information and the types of information it receives, including Documents sufficient to detail the form or manner (e.g., table, spreadsheet, database) the information is received by Each Third Party; and
 - f. any use, disclosure, or sales restrictions placed on any Third Parties that receive such information.
9. To the extent available, produce any data maps, inventories, or other charts, schematics, or graphic depictions sufficient to detail the types of information collected about consumers or their Devices and the data stores where such information is located.

Notice and Disclosure:

10. Produce a copy of Each materially different statement (e.g., advertising, privacy policy, terms of service) You have publicly disseminated or caused to be disseminated relating to Your privacy practices.
11. State the total number of consumers, broken down by month, who have visited or otherwise viewed or interacted with the Company's online privacy policy.

Consent and Choice:

12. For Each category of information described in Specification 7, Describe in Detail:
 - a. when and how consumers are offered choices about the collection, retention, use, or disclosure of Personal Information, and any default choice enabled. Produce a copy of Each materially different communication to consumers about such choices; and
 - b. the total number and percentage of users who have exercised such choices, broken down by (1) program or service; (2) type of choice described in subsection (a); and (3) year.
13. Irrespective of whether on a trial or test basis, regional level, or national level, has the Company ever offered different levels of service, quality of service, rates, pricing, rewards, or other incentives for consumers who opt-in to the collection of information about themselves, their Devices, their communications, their viewing history, or their online activities? If so, Describe in Detail such practices and produce Each materially different notice provided to consumers concerning the practice. Further, produce any internal studies, analyses, tests, marketing research, or experiments that the Company has conducted or caused to be conducted on the provision of different levels of service, quality of service, rates, pricing, rewards, or other incentives for consumers who opt-in to the collection of information about themselves, their Devices, their communications, their viewing history, or their online activities.
14. Irrespective of whether on a trial or test basis, regional level, or national level, has the Company ever denied service, or otherwise degraded the quality of service, for consumers who fail to opt-in to the collection of information about themselves, their Devices, their communications, their viewing history, or their online activities, beyond information that is necessary for the provision of Internet or cable services? If so, Describe in Detail such practices and produce Each materially different notice provided to consumers concerning the practice. Further, produce any internal studies, analyses, tests, marketing research, or experiments that the Company has conducted or caused to be conducted on denying service, or otherwise degrading the quality of service, for consumers who fail to opt-in to the collection of information about themselves, their Devices, their communications, their viewing history, or their online activities, beyond information that is necessary for the provision of Internet or cable services.

Access, Correction, and Deletion:

15. Describe in Detail the Company's process for providing consumers with the ability to access, correct, or delete their Personal Information.
16. Describe in Detail the Company's data deletion and retention policies, including any retention periods for Personal Information about consumers and their Devices. Produce any written data deletion and retention policies and procedures and public statements to consumers about retention or deletion policies and procedures.

Other Documents:

17. Produce all Documents Identified in Your response to this Order that were not otherwise specifically requested.

Attachment A

DEFINITIONS & ADDITIONAL INSTRUCTIONS

- A. “**Ad Service**” means any program or service that analyzes, tracks, or otherwise identifies consumers, their households, or their devices for purposes of advertising or improving advertisements to consumers, irrespective of platform (e.g., Internet, cable, or television).
- B. “**Company**” means [company name], its divisions, branches, joint ventures, and operations under assumed names.
- C. “**Device**” means (a) any computing device that operates using an operating system, including smartphone, tablet, wearable, sensor, television, set-top box, cable box, router, or any periphery of any portable computing device; and (b) the software used to access, operate, manage, or configure a device subject to part (a) of this definition, including, but not limited to, the firmware, web or mobile applications, and any related online services.
- D. “**Describe in Detail**” means providing the information requested in narrative form, including an explanation of Each material change, if any, made over the applicable time period relating to the practices described, as well as the effective date of the change(s) and the reason(s) for such change(s).
- E. “**Document**” means the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minute, code book, or label. “Document” shall also include all documents, materials, and information, including Electronically Stored Information, within the meaning of the Federal Rules of Civil Procedure.
- F. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”
- G. “**Electronically Stored Information**” or “**ESI**” means the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any electronic medium from which information can be obtained either directly or, if necessary, after translation by You into a reasonably usable form. This includes, but is not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and video and sound recordings, whether stored on: cards, magnetic or electronic

tapes, disks, computer hard drives, network shares or servers, or other drives, cloud-based platforms, cell phones, PDAs, computer tablets, or other mobile devices, or other storage media.

- H. **“Identify”** shall be construed to require identification of (a) natural persons by name, title, present business affiliation, present business address and telephone number, or if a present business affiliation or present business address is not known, the last known business and home addresses; and (b) businesses or other organizations by name, address, identities of natural persons who are officers, directors, or managers of the business or organization, and contact persons, where applicable.
- I. **“Order”** means the Order, including the attached Resolution, Specifications, and Attachment.
- J. **“Parent”** means any person or entity that owns or controls (directly or indirectly) the Company. For purposes of this paragraph, the term “own” means to own an equity interest (or the equivalent thereof) of more than 10 percent.
- K. **“Personal Information”** means information about a specific consumer or device, including: (a) first and last name; (b) home or other physical address, including street name and name of city or town, or other information about the location of the individual, including but not limited to location from cellular tower information, fine or coarse location, or GPS coordinates; (c) email address or other online contact information, such as an instant messaging user identifier or screen name; (d) telephone number; (e) a persistent identifier, such as a customer number held in a “cookie,” a static Internet Protocol (“IP”) address, a device identifier, a device fingerprint, a hashed identifier, or a processor serial number; (f) nonpublic communications and content, including, but not limited to, e-mail, text messages, photos, videos, audio, or other digital images or audio content; (g) Internet browsing history, search history, or list of URLs visited; (h) video, audio, cable, or TV viewing history; (i) biometric data; or (j) health or medical information.
- L. **“Third Party”** means any person or entity that is not exclusively operated or controlled by the Company, including a Parent, affiliate, or separately incorporated subsidiary of the Company.
- M. **“You”** and **“Your”** means the person or entity to whom this CID is issued and includes the “Company.”
- N. **Meet and Confer:** You are encouraged to contact **Jah-Juin “Jared” Ho** at **(202) 326-3463**, as soon as possible to schedule a meeting (telephonic or in person) in order to confer regarding Your response.
- O. **Modification of Specifications:** If You believe that the scope of the required search or response for any specification can be narrowed consistent with the Commission’s need for Documents or information, You are encouraged to discuss such possible modifications,

including any modifications of definitions and instructions, with the Commission counsel named above.

- P. **Electronic Submission of Documents:** See the attached “Federal Trade Commission, Bureau of Consumer Protection Production Requirements,” which details all requirements for submission of information, generally requiring that files be produced in native form and specifying the metadata to be produced. As noted in the attachment, some items require discussion with the FTC counsel **prior to** production, which can be part of the general “Meet and Confer” described above. If You would like to arrange a separate discussion involving persons specifically familiar with Your ESI systems and methods of retrieval, make those arrangements with FTC counsel when scheduling the general meet and confer discussion.
- Q. **Applicable Time Period:** Unless otherwise directed in the specifications, the applicable time period for the request shall be from **July 1, 2017 until the date of full and complete compliance with this Order.**
- R. **Document Production:** Because postal delivery to the Commission is subject to delay due to heightened security precautions, please use a courier service such as Federal Express or UPS.
- S. **Production of Copies:** Copies of marketing materials and advertisements shall be produced in color, and copies of other materials shall be produced in color if necessary to interpret them or render them intelligible.
- T. **Sensitive Personally Identifiable Information:** If any material called for by these requests contains sensitive Personally Identifiable information or sensitive health information of any individual, please contact us before sending those materials to discuss ways to protect such information during production. For purposes of these requests, sensitive Personally Identifiable information includes: an individual’s Social Security number alone; or an individual’s name or address or phone number in combination with one or more of the following: date of birth, Social Security number, driver’s license number or other state identification number, or a foreign country equivalent, passport number, financial account number, credit card number, or debit card number. Sensitive health information includes medical records and other individually identifiable health information relating to the past, present, or future physical or mental health or conditions of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.