

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

Division of Privacy and Identity Protection
Bureau of Consumer Protection

[Date]

BY CERTIFIED MAIL

[Company]

RE: Privacy Policy Regarding APEC CBPR Participation

Dear []:

We are writing because the privacy policy on [Company]'s website indicates that [Company] is a participant in the Asia-Pacific Economic Cooperation ("APEC") Cross-Border Privacy Rules ("CBPR") system. The official CBPR website—www.cbprs.org—does not, however, include [Company] as a certified participant in the system.

Before a company may participate in the APEC CBPR system, a designated third party known as an APEC-recognized Accountability Agent must review and certify that the company is compliant with the CBPR program requirements. The company would then have relevant details of its certification published on the official CBPR website.

The FTC has brought several cases based on a company's false claim of participation in an international privacy program, including the APEC CBPR system. These cases allege that such false claims deceive consumers in violation of Section 5 of the Federal Trade Commission Act. In an enforcement action brought under the Act, the FTC may also name as respondents any individuals who controlled, had the authority to control, or participated in the unlawful conduct.

If your company has in fact undergone the review and certification required to support the claim of participation in the APEC CBPR system, please let us know within 45 days by contacting us at apec.cbpr@ftc.gov. Otherwise, your company should: (1) immediately remove from its website, privacy policy, and any other public documents, all representations that might be construed as claiming participation or involvement in the APEC CBPR system; and (2) contact us within 45 days at apec.cbpr@ftc.gov to confirm that you have done so.

If your company would like to be a certified participant in the APEC CBPR system, please review the program's requirements and take all necessary steps. Unless and until your company is certified, however, you should make no representation regarding participation or involvement in the APEC CBPR system.

If we do not receive a timely and satisfactory response from you, we reserve the right to take appropriate legal action to protect the integrity of the APEC CBPR system. We appreciate your prompt attention to this matter.

Sincerely,

Maneesha Mithal
Associate Director
Division of Privacy and Identity Protection