

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

**COMMISSIONERS:**      **Edith Ramirez, Chairwoman**  
                                 **Julie Brill**  
                                 **Maureen K. Ohlhausen**  
                                 **Joshua D. Wright**  
                                 **Terrell McSweeney**

**In the Matter of**

**DEUTSCH LA, INC.,  
a corporation.**

**DOCKET NO. C-4515**

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Deutsch LA, Inc., a corporation (“Respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Deutsch LA, Inc., is a California corporation with its principal office or place of business at 5454 Beethoven Street, Los Angeles, CA 90066.
2. Respondent, at all times relevant to this complaint, was an advertising agency of Sony Computer Entertainment America LLC (“SCEA”), and prepared and disseminated advertisements to promote the sale of the PlayStation Vita (“PS Vita”). The PS Vita is a game console that SCEA first offered for sale in the United States on February 22, 2012. The PS Vita is part of SCEA’s line of game consoles, including the PlayStation 3 video game console (“PS3”) that allows consumers to play video games on their television sets. Unlike the PS3, the PS Vita is a handheld, portable game console that allows consumers to play games away from their television sets. In addition to selling game consoles, SCEA is one of the many game developers writing game titles for use on its PS3 and PS Vita game consoles. At the time the PS Vita was launched, “MLB 12: The Show” and “Unit 13” were popular SCEA titles for the PS3.
3. Advertisements prepared by Respondent promoted, among other things, two notable features of the PS Vita. First, advertisements represented that, with the “cross platform gaming” or “cross save” feature, consumers could begin playing a game on a PS3, save their progress at a specific point in the game, and then continue that game where they left off on the PS Vita. Second, with the “3G version” of the PS Vita, available for an extra \$50 and monthly fees, advertisements represented that consumers could access a 3G network to play games live with others (“multiplayer gaming”).

4. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

5. Respondent has disseminated or has caused to be disseminated advertisements for the PS Vita, including but not necessarily limited to the attached Exhibits A through D. These advertisements contain the following statements and depictions:

A. Television Commercial (Exhibit A, transcript, and Exhibit B, DVD containing ad)

[Depiction of a young man sitting on a couch, playing the PS3 game, “MLB 12: The Show”]

[*Voice Over*]: “It’s a problem as old as gaming itself. Stay home and just keep playing, or get to work on time so your coffee breath boss doesn’t ride you like a rented scooter.”

[Depiction of the inside of a subway car]

[*On-screen Super*]: “Simulated screen visual”

[*Voice Over*]: “Who says you have to choose?”

[*On-screen Super*]: “**CROSS PLATFORM PLAY**”

[Depiction of the man pausing the PS3 game, picking up the PS Vita, viewing a download screen, and walking out the door, continuing to play the same game on his PS Vita while walking down the street]

[*Voice Over*]: “Your PS3 stays home, but the game goes with you.”

[*On-screen Super*]: “**#GAMECHANGER**”

[*Voice Over*]: “Never stop playing.”

[*On-screen Super*]: “**NEVER STOP PLAYING**”

[*Voice Over*]: “PlayStation Vita”

[*On-screen Super*]: “**PS VITA**”

B. Television and Internet Commercial (Exhibit C, transcript, and Exhibit D, DVD containing ad)

[Depiction of a young man walking down the street, playing the shooting game, “Unit 13” on his PS Vita]

[*Voice Over*]: “Suddenly it doesn’t feel so safe out there.”

[*On-screen Super*]: “Simulated screen visual”

[Voice Over]: “People are lookin’ at ’cha with bad intentions. Because with Vita, your spot on the leader board is always up for grabs.”

[Depiction of the young man passing strangers on the street who also appear to be playing on a PS Vita. They look furtively at each other. A man passing by on a bus, who also appears to be playing a PS Vita, nods to the young man.]

[Voice Over]: Find a friend, find an enemy, find a game anywhere, anytime.”

[On-screen Super]: “**3G GAMING**”

[On-screen Super]: “**#GAMECHANGER**”

[Voice Over]: “Never Stop Playing”

[On-screen Super]: “**NEVER STOP PLAYING**”

[Voice Over]: “PlayStation Vita”

[On-screen Super]: “**PS VITA**”

6. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that:

- A. PS Vita users are able to pause any PS3 game they are playing on their PS3 consoles at a specific point in the game, and continue to play that game where they left off on the PS Vita.
- B. PS Vita users who own the 3G version are able to engage in live, multiplayer gaming through a 3G network.

7. In truth and in fact:

- A. PS Vita users are not able to pause any PS3 game they are playing on their PS3 consoles at a specific point in the game, and continue to play that game where they left off on the PS Vita. This cross platform gaming feature is only available for a limited number of PS3 game titles, and the pause and save feature varies significantly by game. For example, with respect to “MLB 12: The Show,” consumers are only able to pause and save the game to the PS Vita after having finished the entire baseball game (all nine innings) on the PS3.
- B. PS Vita users who own the 3G version are not able to engage in live, multiplayer gaming through a 3G network. PS Vita users are restricted to asynchronous or “turn-based” multiplayer gaming with the 3G version of the PS Vita.

Therefore, the representations set forth in Paragraph 6 were, and are, false or misleading.

8. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that consumers can play PS3 games, such as “MLB 12: The Show,” on the PS3, pause the game, and continue that game on the PS Vita. Respondent has failed to disclose that, to use this feature, consumers must own two versions of the same game for each console (e.g., two versions of “MLB 12: The Show”), one for the PS3 and one for the PS Vita. This fact would be material to consumers in their purchase and use of the PS Vita. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

9. Respondent knew or should have known that the representations set forth in paragraphs 6 and 8 were, and are, false or misleading.

10. Through the means described in Paragraph 5, Respondent included the term “#gamechanger” in advertisements for the PS Vita. This term directed consumers to online conversations about the PS Vita on Twitter.

11. Approximately one month before SCEA offered the PS Vita for sale to the public, one of Respondent’s assistant account executives sent the following email message to all of Respondent’s employees:

“Fellow Deutchers –

The PlayStation Team has been working hard on a campaign to launch Sony's all-new handheld gaming device, the PS Vita, and we want **YOU** to help us kick things off!

The PS Vita's innovative features like 3G gaming, cross platform play and augmented reality will revolutionize the way people game. To generate buzz around the launch of the device, the PS Vita ad campaign will incorporate a #GAMECHANGER hashtag into nearly all creative executions. #GAMECHANGER will drive gamers to Twitter where they can learn more about the PS Vita and join in the conversation. **The campaign starts on February 13th, and to get the conversation started, we're asking YOU to Tweet about the PlayStation Vita using the #GAMECHANGER hashtag.** Easy, right?  
<https://twitter.com/#!/search/%23gamechanger>

Want to know more about what makes the PS Vita a #GAMECHANGER? Check out the links below:

<http://us.playstation.com/psvita/>

[http://www.youtube.com/watch?v=Q8C5quD0a\\_0](http://www.youtube.com/watch?v=Q8C5quD0a_0)

Thanks for your help, and make sure to go get a PlayStation Vita on February 22nd!”

12. As a result of this email message, various Deutsch employees used their personal Twitter accounts to post positive comments about the PS Vita, including the following examples:

“One thing can be said about PlayStation **Vita**...it’s a **#gamechanger**”

“PS **Vita** [ruling] the world. Learn about it!  
us.playstation.com/psvita/**#GAMECHANGER**”

“Thumbs UP **#GAMECHANGER** - check out the new PlayStation **Vita**”

“This is sick. . . .See the new PS **Vita** in action. The gaming **#GameChanger**”

“Got the chance to get my hands on a PS **Vita** and I’m amazed how great the graphics are. It’s definitely a **#gamechanger!**”

13. Through the means described in Paragraphs 10 through 12, Respondent has represented, directly or indirectly, expressly or by implication, that these comments about the PS Vita were independent comments reflecting the views of ordinary consumers who had used the PS Vita.

14. In truth and in fact, these comments about the PS Vita were not independent comments reflecting the views of ordinary consumers who had used the PS Vita. These comments were created by employees of Respondent, an advertising agency hired to promote the PS Vita. Therefore, the representation set forth in Paragraph 13 was, and is, false and misleading.

15. Through the means described in Paragraphs 10 through 12, Respondent has represented, directly or indirectly, expressly or by implication, that certain comments about the PS Vita reflected endorsements from persons who had used the PS Vita. Respondent failed to disclose that those comments were written by employees of Respondent, an advertising agency hired to promote the PS Vita. This fact would have been material to consumers in their purchasing decision regarding the PS Vita. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

16. The acts and practices of Respondent as alleged in this complaint constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

**THEREFORE**, the Federal Trade Commission this twenty-fourth day of March, 2015, has issued this complaint against Respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL: