



Office of the Secretary

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

April 12, 2017

E. Herman
State of Ohio

Re: In the Matter of SpyChatter, Inc., File No. 162 3251, Docket No. C 4614

Thank you for your comment regarding the Federal Trade Commission's proposed consent agreement in the above-entitled proceeding. Your comment indicates that you believe privacy is important and are therefore disappointed because you believe that the proposed consent agreement does not adequately sanction SpyChatter, Inc.'s deceptive conduct.

The Commission shares your view that privacy enforcement is important. The Complaint in this matter alleges that SpyChatter made material misrepresentations, in violation of Section 5 of the FTC Act, and the proposed order is designed to rectify this misconduct. The proposed consent order prohibits SpyChatter from misrepresenting the manner and extent to which it is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy or security program sponsored by a government or any self-regulatory or standard-setting organization. SpyChatter must submit a compliance report to the Commission and adhere to specific notice and recordkeeping provisions for the duration of the order.

The Commission does not have authority to obtain civil penalties for an initial violation under Section 5 of the FTC Act. However, once the order becomes final, SpyChatter will be subject to civil penalties of up to \$40,654 per violation per day (as provided by Section 5(l) of the FTC Act, 45 U.S.C. § 45(l), as adjusted by 16 C.F.R. § 1.98(c)). The prospect of paying civil penalties will provide SpyChatter with an incentive to comply with the order. Accordingly, we believe the order provisions, along with the risk of substantial civil penalties for violating the order, appropriately address the conduct at issue. We also believe that the Commission bringing this action against SpyChatter will deter other companies from engaging in similar conduct. As is the case with all Commission orders, Commission staff will closely monitor SpyChatter's conduct to determine whether any violations occur.

The Commission has placed your comment on the public record, pursuant to rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii). The Commission has now determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary