Kelly, Andrea

From: Signs, Kelly
Sent: Friday, May 03, 2013 5:12 PM
To: Dawson, Rachel Miller
Subject: Re: Draft responses to (some) QFRs

Yep

From: Dawson, Rachel Miller
Sent: Friday, May 03, 2013 05:01 PM
To: Signs, Kelly
Subject: RE: Draft responses to (some) QFRs

Is mon am ok?

> **From:** Signs, Kelly
> **Sent:** Friday, May 03, 2013 4:17 PM
> **To:** Dawson, Rachel Miller
> **Subject:** FW: Draft responses to (some) QFRs
>
> Rachel,
>
> Here is a batch from BC. You can send edits back to me. I think I'm holding the pen for now.
>
> Have a great weekend. Kelly

> **From:** Signs, Kelly
> **Sent:** Friday, May 03, 2013 4:16 PM
> **To:** Feinstein, Richard; Levitas, Pete
> **Cc:** Mongoven, James F.; Bumpus, Jeanne
> **Subject:** Draft responses to (some) QFRs
>
> Rich and Pete,
>
> So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.
>
> This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers (b)(5)
>
> (b)(5)

Kelly, Andrea

From: Vaytsman, Olga
Sent: Monday, May 06, 2013 6:46 PM
To: Dawson, Rachel Miller
Subject: Re: Draft responses to (some) QFRs

(b)(5)

From: Dawson, Rachel Miller
Sent: Monday, May 06, 2013 02:22 PM
To: Vaytsman, Olga
Subject: FW: Draft responses to (some) QFRs

(b)(5)

From: Dawson, Rachel Miller
Sent: Monday, May 06, 2013 1:20 PM
To: Shonka, David C.; White, Christian S.; Freedman, Bruce
Subject: Fw: Draft responses to (some) QFRs

(b)(5)

Timing : Bc is trying to get all the responses to the ch's office by cob tomorrow, and would appreciate comments today if possible to allow this.

Many thanks.

From: Signs, Kelly
Sent: Friday, May 03, 2013 04:17 PM
To: Dawson, Rachel Miller
Subject: FW: Draft responses to (some) QFRs

Rachel,

Here is a batch from BC. You can send edits back to me. I think I'm holding the pen for now.

Have a great weekend. Kelly

From: Signs, Kelly
Sent: Friday, May 03, 2013 4:16 PM
To: Feinstein, Richard; Levitas, Pete

Cc: Mongoven, James F.; Bumpus, Jeanne
Subject: Draft responses to (some) QFRs

Rich and Pete,

So here they are, the answers assigned to BC for drafting. As you can see, I've deleted questions that others will be responding to. Hopefully, you'll get a look at those answers on Monday.

This has been a joint effort by several folks from Health Care, ACP and Compliance as well as OPC. The good news is that we've got pretty good answers for the majority of questions. The bad news is that we have two questions that still need draft answers (b)(5)

(b)(5)

Lots to read, and there will be more. When you're done, others would like to review these answers, so you can send edits back to me and I'll keep them moving.

Have a good weekend. ~Kelly

Kelly, Andrea

From: Signs, Kelly
Sent: Monday, May 06, 2013 1:59 PM
To: Dawson, Rachel Miller
Subject: RE: Emailing: QFRs for Ramirez_OPCresponses.docx

Yes, I see them now. I will try to pass them on to Pete, who is working with the language right now.

-----Original Message-----
From: Dawson, Rachel Miller
Sent: Monday, May 06, 2013 1:43 PM
To: Signs, Kelly
Subject: Emailing: QFRs for Ramirez_OPCresponses.docx

Did this work?

Kelly, Andrea

From: White, Christian S.
Sent: Tuesday, May 07, 2013 1:24 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)

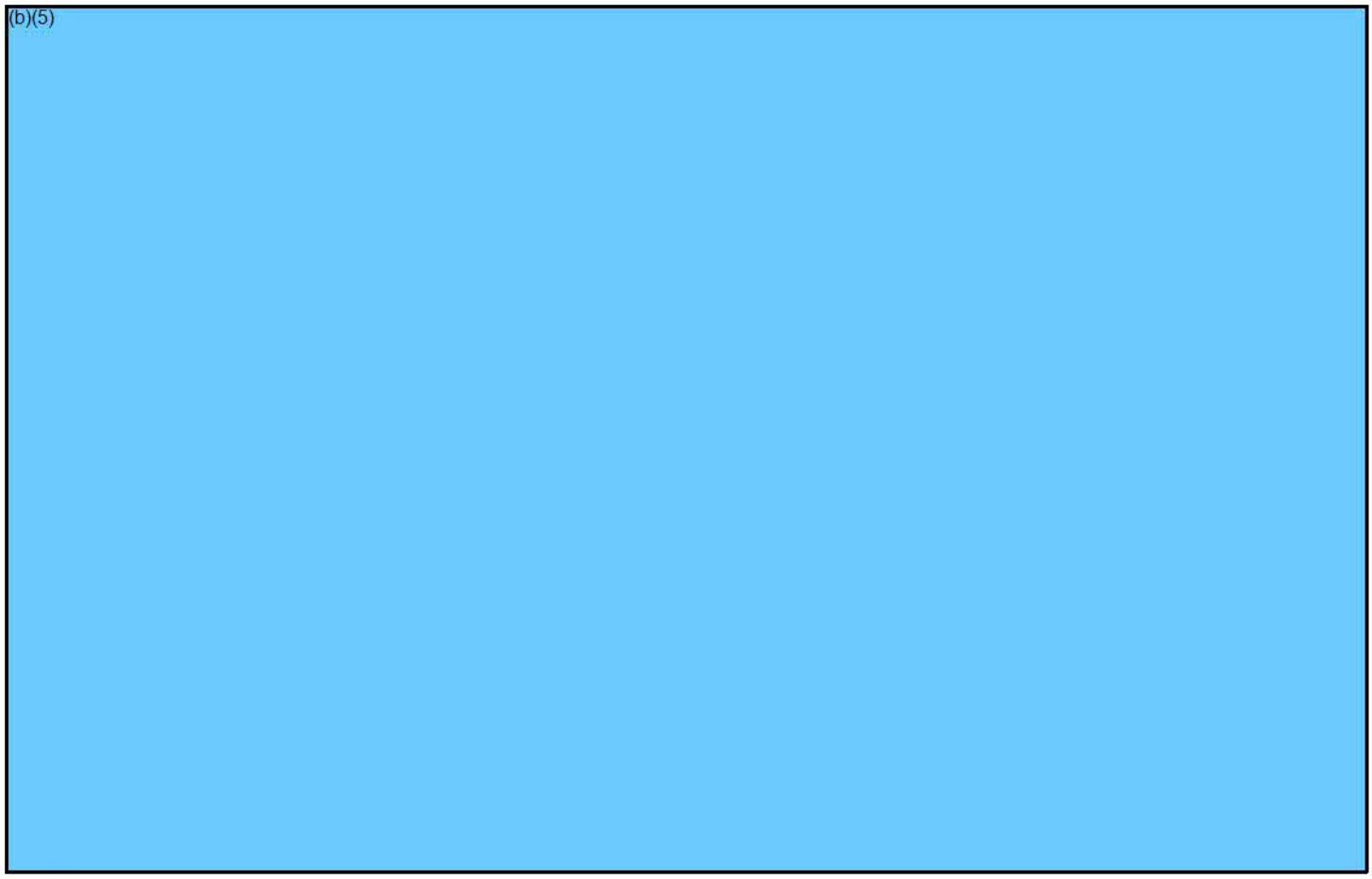
From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 1:20 PM
To: White, Christian S.
Subject: RE: revised Google

(b)(5)

From: White, Christian S.
Sent: Tuesday, May 07, 2013 1:16 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)

(b)(5)

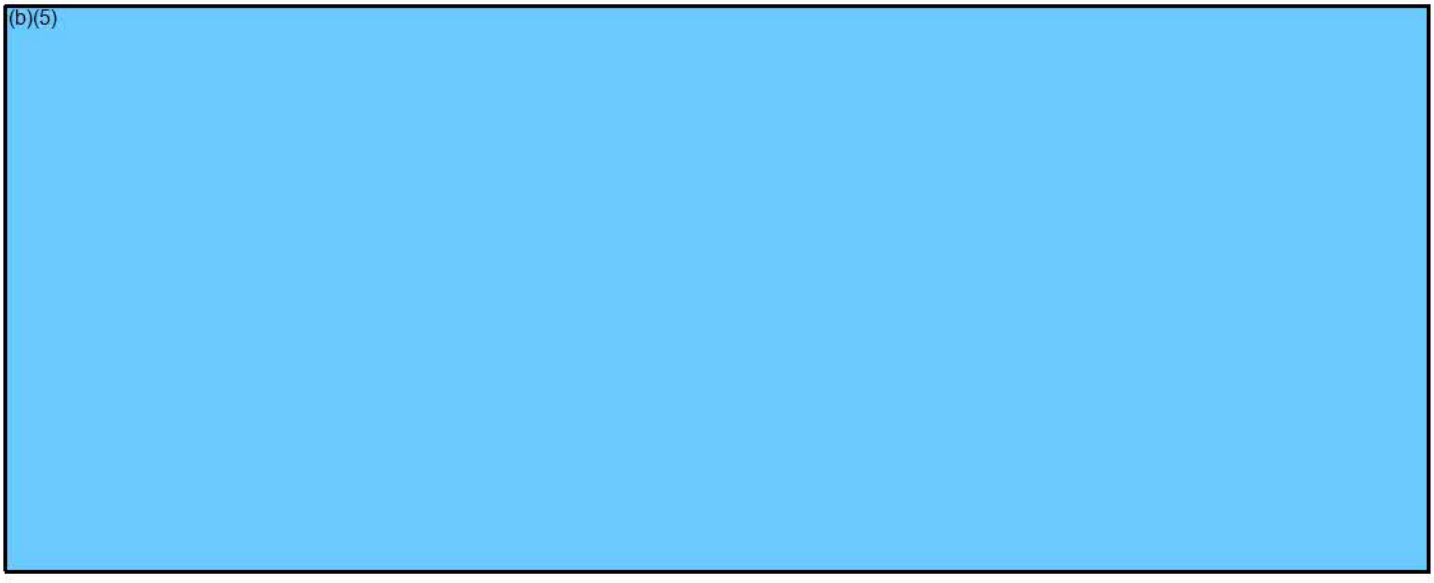


From: Freedman, Bruce
Sent: Tuesday, May 07, 2013 12:50 PM
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.; Harrison, Lisa M.
Subject: Re: revised google

Revisions look good.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 12:12 PM
To: Shonka, David C.; White, Christian S.; Harrison, Lisa M.; Freedman, Bruce
Subject: revised google

(b)(5)



Kelly, Andrea

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 1:59 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

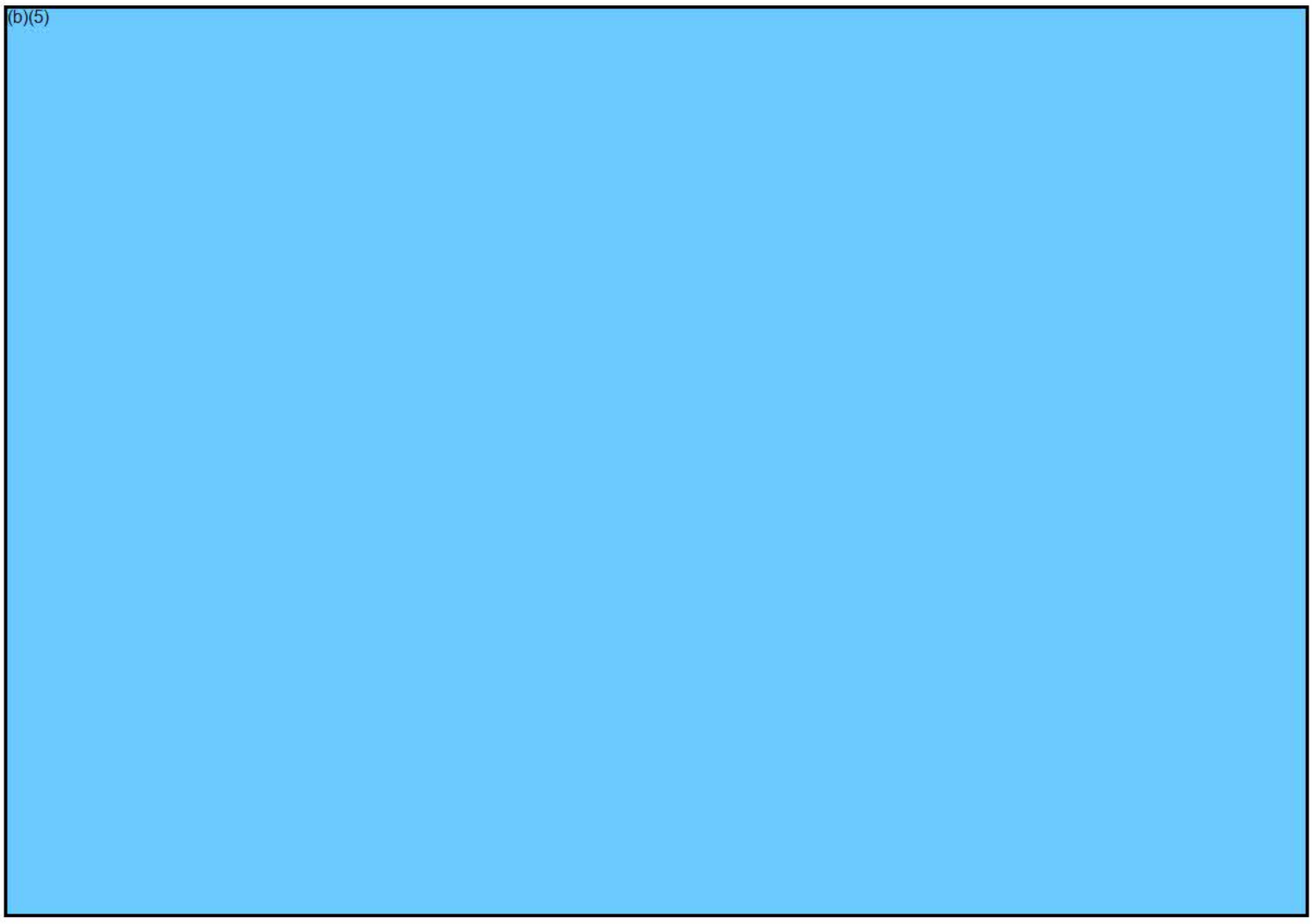
Let me know if you'd like me to take a look. I could do so in about 15 minutes.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 1:53 PM
To: Shonka, David C.
Cc: Harrison, Lisa M.
Subject: FW: revised Google
Importance: High

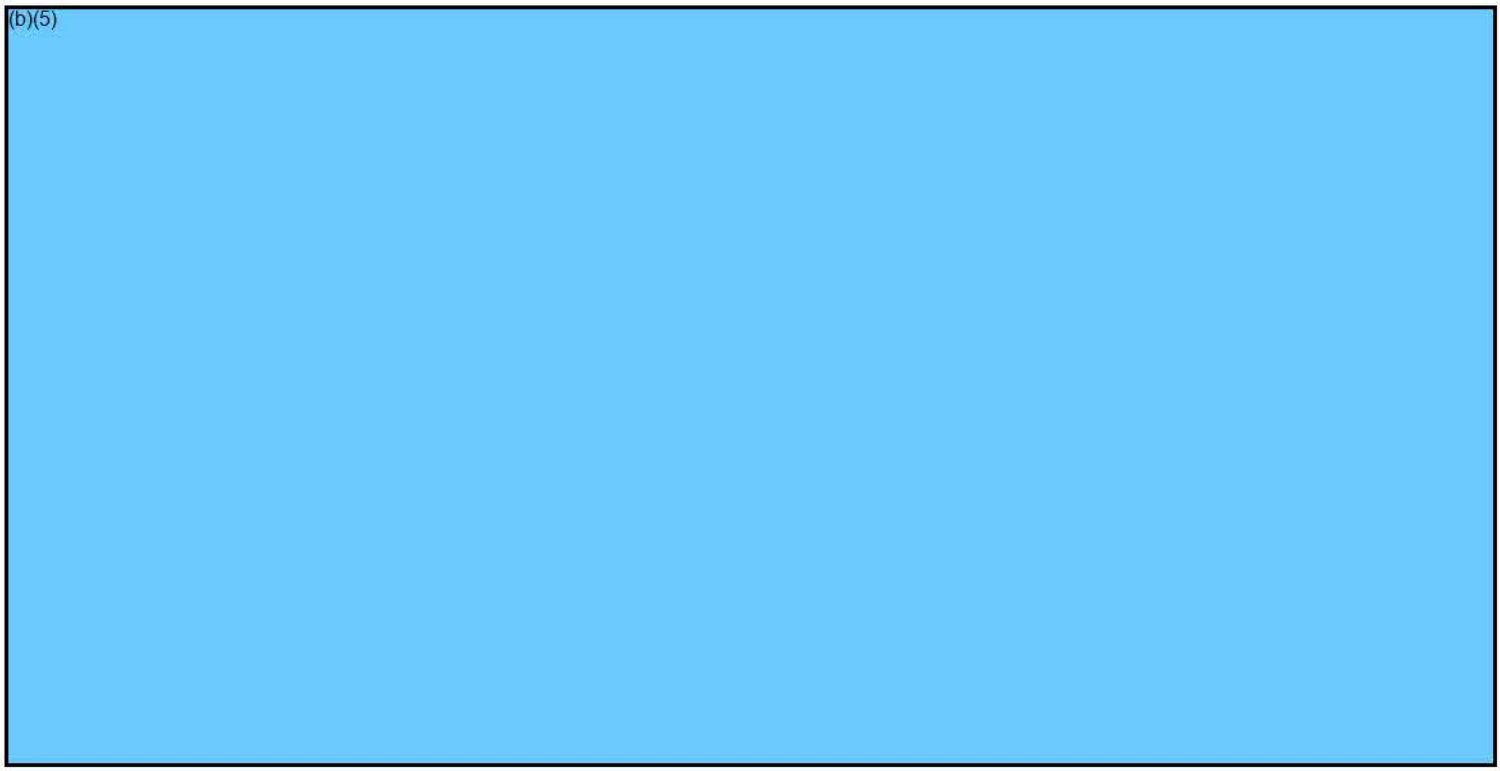
Bruce liked it and chris made a few minor changes which I included. any more comments or can I go ahead and send it to bc? Thx.

From: White, Christian S.
Sent: Tuesday, May 07, 2013 1:16 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)



(b)(5)

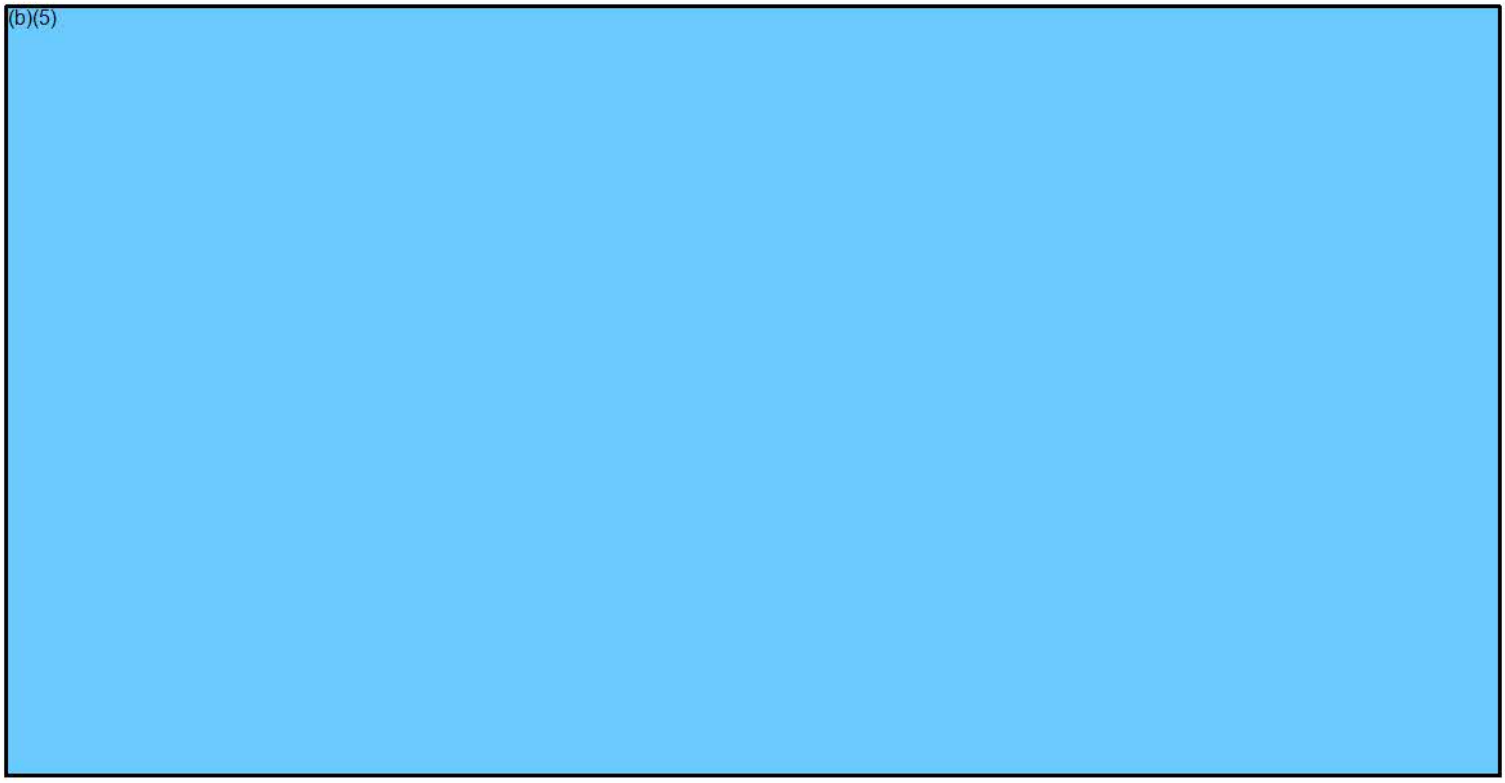


From: Freedman, Bruce
Sent: Tuesday, May 07, 2013 12:50 PM
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.; Harrison, Lisa M.
Subject: Re: revised google

Revisions look good.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 12:12 PM
To: Shonka, David C.; White, Christian S.; Harrison, Lisa M.; Freedman, Bruce
Subject: revised google

(b)(5)



Kelly, Andrea

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 3:19 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 3:12 PM
To: Harrison, Lisa M.
Subject: RE: revised Google

(b)(5)

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 2:43 PM
To: Dawson, Rachel Miller; Shonka, David C.
Subject: RE: revised Google

I've put my comments and suggestions in blue underline below.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 1:53 PM
To: Shonka, David C.
Cc: Harrison, Lisa M.
Subject: FW: revised Google
Importance: High

Bruce liked it and chris made a few minor changes which I included. any more comments or can I go ahead and send it to bc? Thx.

From: White, Christian S.
Sent: Tuesday, May 07, 2013 1:16 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)

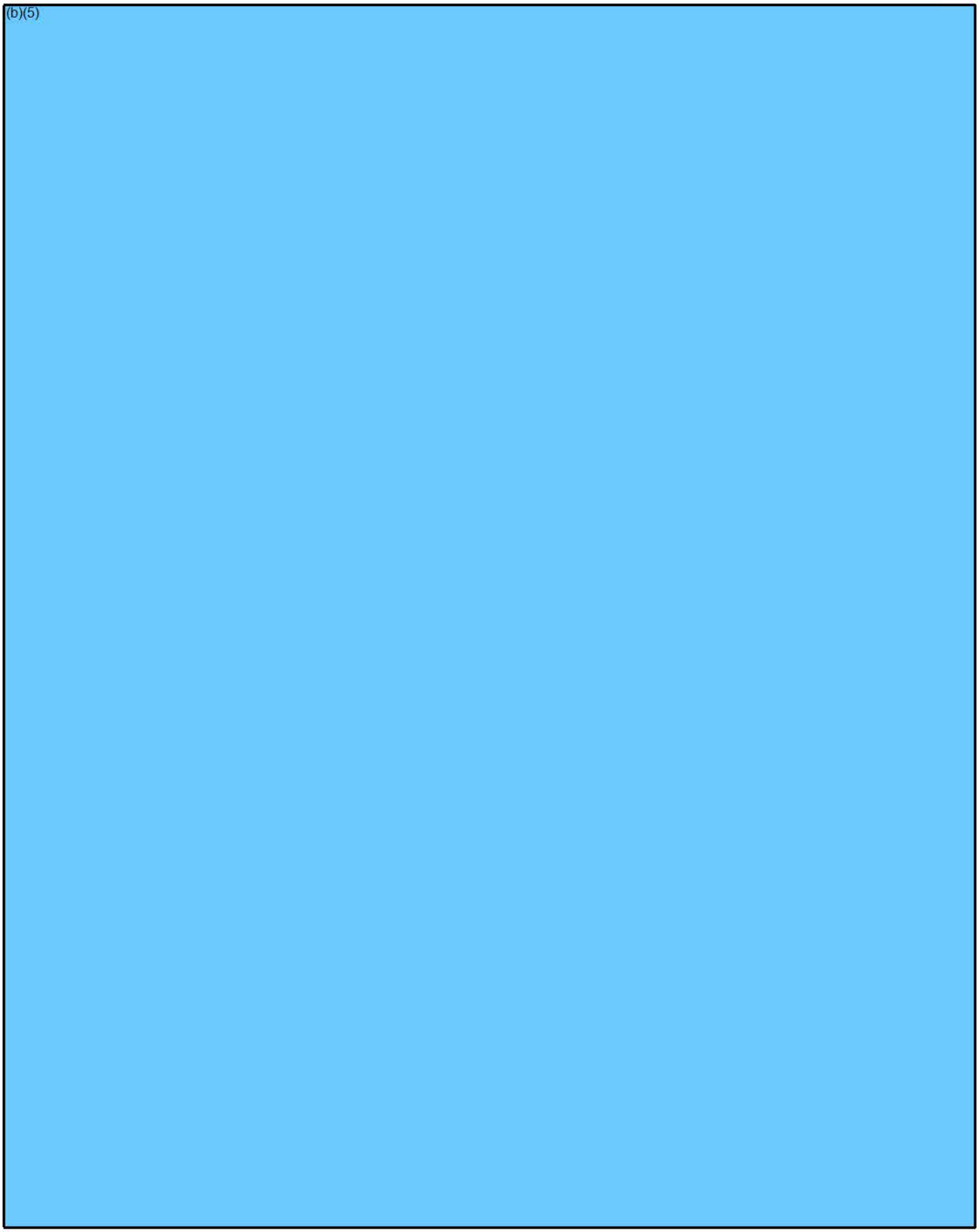
(b)(5)

[redacted]

From: Freedman, Bruce
Sent: Tuesday, May 07, 2013 12:50 PM
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.; Harrison, Lisa M.
Subject: Re: revised google

Revisions look good.

(b)(5)



Kelly, Andrea

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 5:29 PM
To: Shonka, David C.; Dawson, Rachel Miller
Subject: RE: revised Google

I'm going to enter these in below since Rachel is working at home. I'm not sure a pdf would be legible.

From: Shonka, David C.
Sent: Tuesday, May 07, 2013 5:24 PM
To: Harrison, Lisa M.; Dawson, Rachel Miller
Subject: RE: revised Google

Lisa, I put a few handwritten suggestions on your chair.

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 2:43 PM
To: Dawson, Rachel Miller; Shonka, David C.
Subject: RE: revised Google

I've put my comments and suggestions in blue underline below.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 1:53 PM
To: Shonka, David C.
Cc: Harrison, Lisa M.
Subject: FW: revised Google
Importance: High

Bruce liked it and chris made a few minor changes which I included. any more comments or can I go ahead and send it to bc? Thx.

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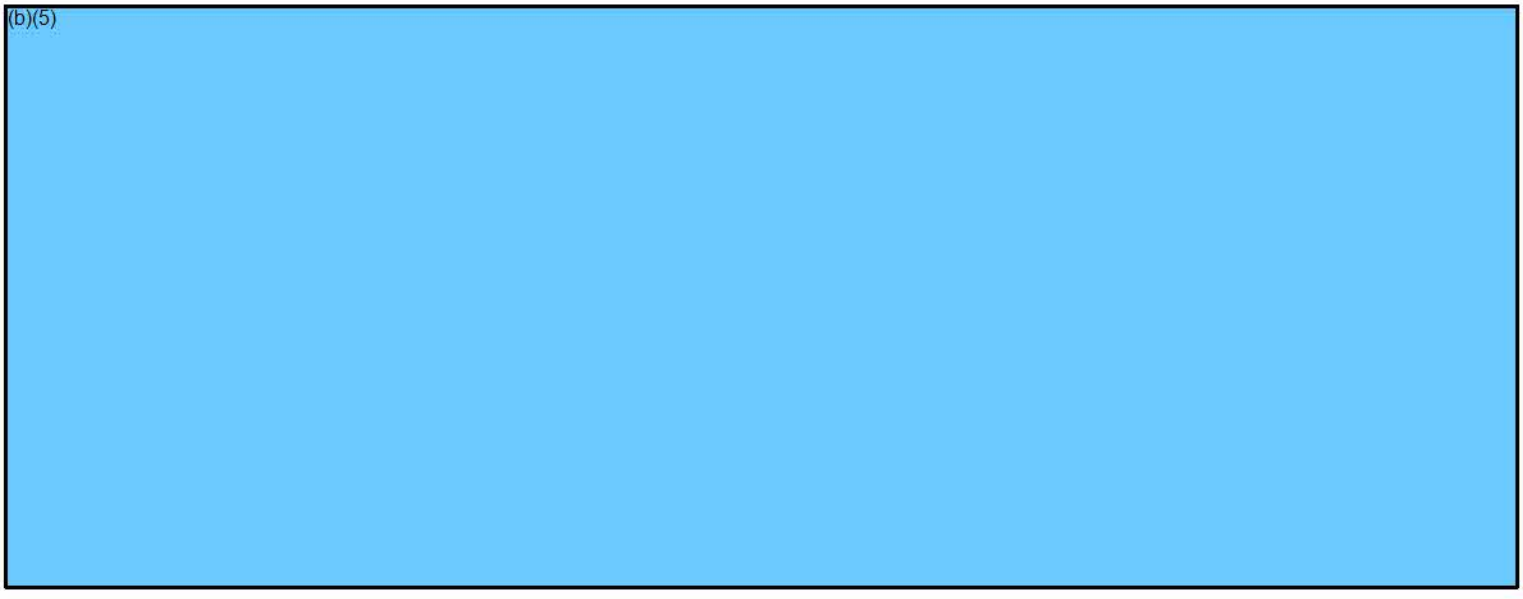
Sent: Tuesday, May 07, 2013 1:16 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)



(b)(5)

From: Freedman, Bruce
Sent: Tuesday, May 07, 2013 12:50 PM
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.; Harrison, Lisa M.
Subject: Re: revised google

Revisions look good.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 12:12 PM
To: Shonka, David C.; White, Christian S.; Harrison, Lisa M.; Freedman, Bruce
Subject: revised google

(b)(5)

Kelly, Andrea

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 5:35 PM
To: Shonka, David C.; Dawson, Rachel Miller
Subject: RE: revised Google

I called Kelly Signs in BC about this, who currently holds the pen. She will send me soon a new clean version, and then I'll input Dave's edits and send back to her and Rachel.

From: Shonka, David C.
Sent: Tuesday, May 07, 2013 5:24 PM
To: Harrison, Lisa M.; Dawson, Rachel Miller
Subject: RE: revised Google

Lisa, I put a few handwritten suggestions on your chair.

From: Harrison, Lisa M.
Sent: Tuesday, May 07, 2013 2:43 PM
To: Dawson, Rachel Miller; Shonka, David C.
Subject: RE: revised Google

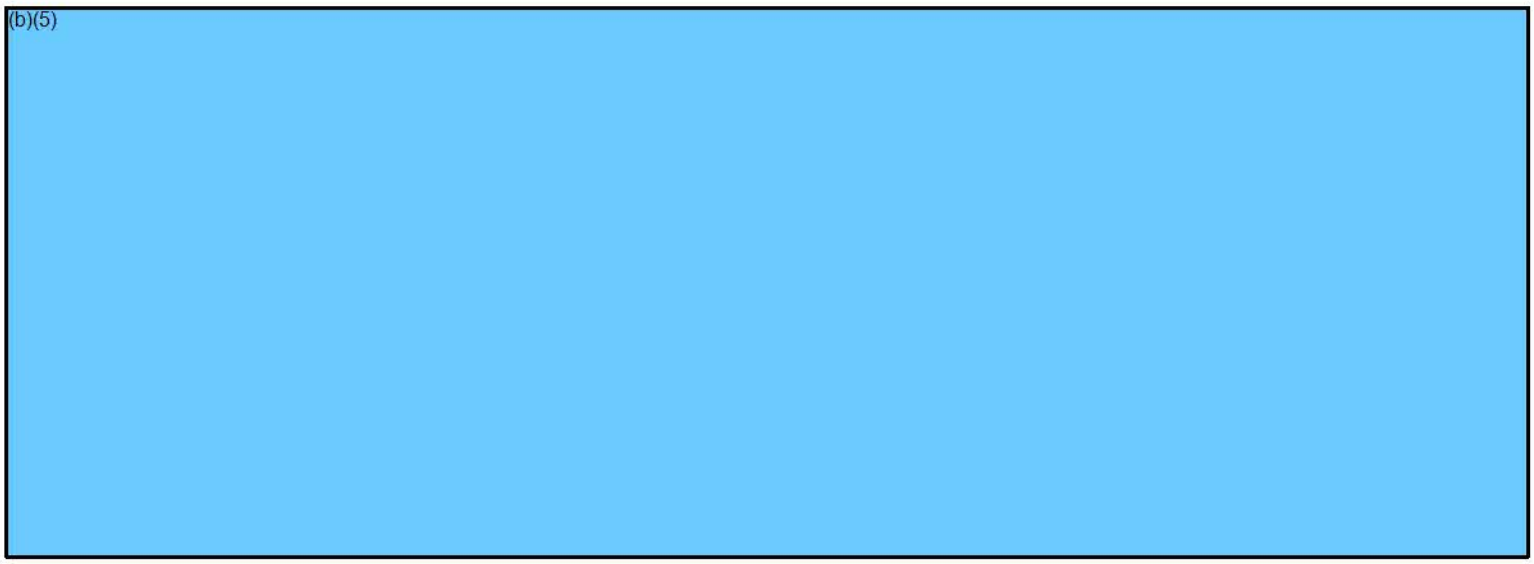
I've put my comments and suggestions in blue underline below.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 1:53 PM
To: Shonka, David C.
Cc: Harrison, Lisa M.
Subject: FW: revised Google
Importance: High

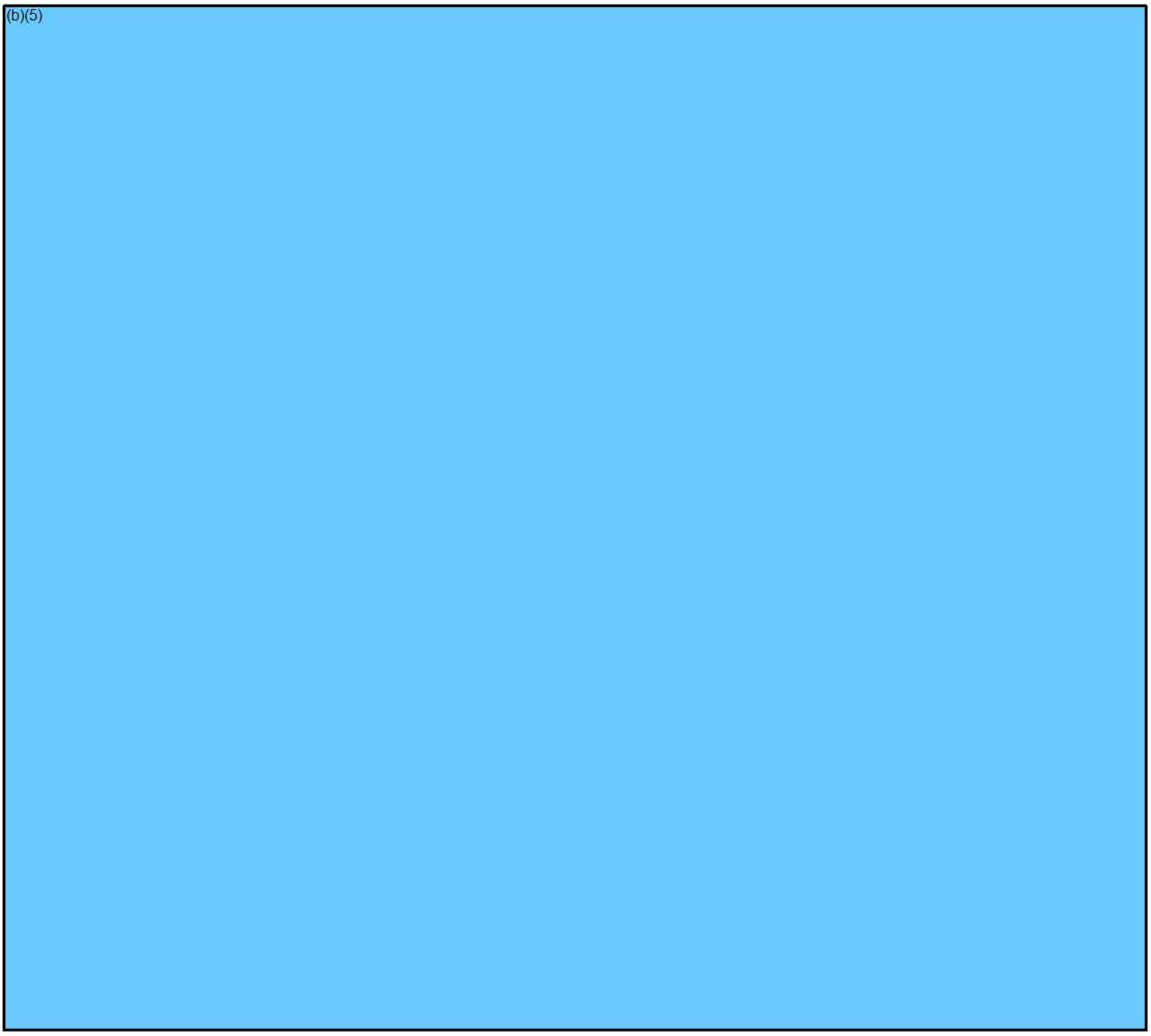
Bruce liked it and chris made a few minor changes which I included. any more comments or can I go ahead and send it to bc? Thx.

From: White, Christian S.
Sent: Tuesday, May 07, 2013 1:16 PM
To: Dawson, Rachel Miller
Subject: RE: revised Google

(b)(5)



(b)(5)



From: Freedman, Bruce
Sent: Tuesday, May 07, 2013 12:50 PM
To: Dawson, Rachel Miller; Shonka, David C.; White, Christian S.; Harrison, Lisa M.
Subject: Re: revised google

Revisions look good.

From: Dawson, Rachel Miller
Sent: Tuesday, May 07, 2013 12:12 PM
To: Shonka, David C.; White, Christian S.; Harrison, Lisa M.; Freedman, Bruce
Subject: revised google

Kelly, Andrea

From: Dawson, Rachel Miller
Sent: Wednesday, May 01, 2013 2:48 PM
To: Signs, Kelly
Cc: Harrison, Lisa M.; Watts, Marianne R.
Subject: Re: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Not Responsive

From: Signs, Kelly
Sent: Wednesday, May 01, 2013 02:04 PM
To: Dawson, Rachel Miller; Harrison, Lisa M.; Watts, Marianne R.
Subject: FW: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Not Responsive

In the meantime, we've got BC, OPP and OIA drafting responses to all the other questions. You should see drafts from various people sometime on Monday. The hope is to get something back to Jeanne on Tuesday early.

Call if you have any questions or need other background material. We have quite a bit on this topic, most of which I believe you have as well.

Good luck! Kelly

From: Bumpus, Jeanne
Sent: Tuesday, April 30, 2013 6:00 PM
To: Clark, Donald S.
Cc: Signs, Kelly; Vandecar, Kim; Runco, Philip; Nathan, Jon J.; Kimmel, Lisa; Hippsley, Heather; Dawson, Rachel Miller; Shonka, David C.; Kraus, Elizabeth; Koslov, Tara Isa
Subject: FW: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Attached please find the post hearing questions. Replies are due May 14. The questions are quite extensive, particularly from Senator Lee. I have copied all of the Bureaus/Offices I anticipate will need to be involved in preparing draft responses for the Chairwoman. The questions cover the following topics:

Sen. Grassley
PFD

Sen. Leahy
GPOs
PAEs
Various aspects of Google and agency technical expertise

Sen. Lee
Section 2 guidance
Section 5
Differences in standards/procedures between FTC and DoJ
Voluntary commitments

Standard used in Google
Coordination with states on Google
Clearance
SEPs and Bosch
PFD
PAEs and 6(b) study
Mandatory IP licensing by foreign authorities
Eyeglass prescriptions
International transparency
Use of advocacy resources

Sen. Klobuchar
Role of antirust
Clearance
SEPs

From: Kartzmer, Melanie (Judiciary) [mailto:Melanie_Kartzmer@judiciary-dem.senate.gov]
Sent: Tuesday, April 30, 2013 2:35 PM
To: Bumpus, Jeanne
Cc: Holland, Caroline (Judiciary-Dem); Ross, Halley (Judiciary)
Subject: 4-16-13 Antitrust Hearing - Questions for the Record (Ramirez)

Dear Ms. Jeanne Bumpus:

Attached please find a letter from Chairman Leahy as well as questions submitted for the record to Chairwoman Ramirez from Senator Leahy, Senator Klobuchar, Senator Grassley and Senator Lee.

Please do not hesitate to contact me should you have any questions or need any additional information.

Best,

Melanie

Melanie Kartzmer
Hearing Clerk
Committee on the Judiciary
http://judiciary.senate.gov/

Kelly, Andrea

From: Dawson, Rachel Miller
Sent: Thursday, May 02, 2013 1:45 PM
To: Watts, Marianne R.; Harrison, Lisa M.
Subject: FW: Antitrust Oversight Hearing Transcript 4.16.13

fyi

From: Koslov, Tara Isa
Sent: Thursday, May 02, 2013 1:45 PM
To: Levitas, Pete; Lehner, Mary; Bumpus, Jeanne; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Signs, Kelly; Shonka, David C.; Kraus, Elizabeth; Dawson, Rachel Miller; Gavil, Andrew I.; Munck, Suzanne
Cc: Nathan, Jon J.; Kimmel, Lisa
Subject: RE: Antitrust Oversight Hearing Transcript 4.16.13

I'm adding Andy and Suzanne to the distribution list, since we're all working on various pieces of this project. Thanks!

From: Levitas, Pete
Sent: Thursday, May 02, 2013 12:16 PM
To: Lehner, Mary; Bumpus, Jeanne; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller
Cc: Nathan, Jon J.; Kimmel, Lisa
Subject: RE: Antitrust Oversight Hearing Transcript 4.16.13

Thanks Mary – to the extent everyone can send these over on a rolling basis that would be helpful. Also, we're trying to get these finished and in to Mary and Jon and Lisa by cob Tuesday, so if you can send things either over the weekend if they are ready or as early on Monday as possible that will make things easier. Thanks

---

From: Lehner, Mary
Sent: Wednesday, May 01, 2013 6:29 PM
To: Bumpus, Jeanne; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller
Cc: Levitas, Pete; Nathan, Jon J.; Kimmel, Lisa
Subject: RE: Antitrust Oversight Hearing Transcript 4.16.13

All,

For ease of administration, Pete has graciously agreed to review and standardize the responses before they come to Jon and me on Tuesday evening. Please coordinate timing with Pete, so that he knows when to expect drafts of the responses you are working on. Thanks so much, everyone –

Mary

From: Kimmel, Lisa
Sent: Wednesday, May 01, 2013 9:06 AM
To: Bumpus, Jeanne; Nathan, Jon J.; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Levitas, Pete; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller; Lehner, Mary
Subject: Re: Antitrust Oversight Hearing Transcript 4.16.13

Thanks Jeanne. Adding Mary Lehner. Please include her on circulation list re testimony. Thanks.

From: Bumpus, Jeanne
Sent: Wednesday, May 01, 2013 09:04 AM
To: Nathan, Jon J.; Kimmel, Lisa; Hippsley, Heather; Feinstein, Richard; Armstrong, Norman; Levitas, Pete; Signs, Kelly; Shonka, David C.; Koslov, Tara Isa; Kraus, Elizabeth; Dawson, Rachel Miller
Subject: FW: Antitrust Oversight Hearing Transcript 4.16.13

Attached please find the transcript of the 4/16 hearing. Some of the Chairwoman's statements are quoted or referred to in to the QFRs.

Questions for the Record Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
on "Oversight of the Enforcement of the Antitrust Laws"
April 16, 2013

Questions for Chairwoman Ramirez

1) In 2012, the Government Accountability Office (GAO) issued a report concerning Federal oversight and self-regulation of Group Purchasing Organizations (GPOs). This area has long been of interest to the Judiciary Committee. After I raised concerns about the potential impact on patient costs of GPO contracting practices with the Justice Department in 2000, and the Department of Health and Human Services in 2001, the Antitrust Subcommittee held a series of hearings on GPO practices that culminated in a joint report by the Department of Justice and Federal Trade Commission in 2004. During the hearings, many expressed concern that fees paid by vendors to GPOs distort demand, resulting in higher prices for hospitals and consumers.

Although the Department of Justice and FTC have investigated complaints against various GPOs, since 2004 the Department has filed only one lawsuit against a GPO under the antitrust laws, and the FTC has filed none. The GAO's 2012 report observed: "While the oversight of GPOs is conducted through the exercise of investigatory authorities of HHS, DOJ, and FTC… this oversight does not address other key questions that have previously been raised about GPOs' activities. For example, inasmuch as the collection of contract administrative fees is permitted under the safe harbor provision to the Anti-Kickback statute and safe harbor regulation, this oversight cannot address whether or to what extent these fees create a financial incentive that is inconsistent with GPOs obtaining the lowest prices for their customers."

Do you believe that the current legislative framework is sufficient to address the risk of undesirable conduct by GPOs that increases prices for consumers? Do you agree that the legal framework could be strengthened through other measures, such as revisiting the safe harbor for GPOs provided in the Anti-Kickback Statute?

2) Last year, I asked then-Commissioner Ramirez and the Acting Assistant Attorney General for Antitrust, Joseph Wayland, whether "patent trolling" behavior by certain patent-assertion entities could constitute an antitrust violation. Mr. Wayland responded: "Any effort by a patent owner to harm competition by improperly extending the exclusionary scope of its patent . . . may violate the antitrust laws, and allegations of such actions merit investigation." I was pleased that your agencies recently held a joint workshop to further investigate this question. How do your agencies intend to follow up on the workshop?

3) In your testimony, you stated that the FTC has heard reports of patent assertion entities making unsubstantiated claims relative to small businesses. Unfortunately, I continue to hear frequently about this problem from small businesses in Vermont and across the country. What steps can the FTC take to address this conduct through its consumer protection authority? Will

you agree to monitor such activity and take appropriate action to address abusive behavior by patent trolls?

4) Earlier this year, the FTC concluded its investigation of Google's search engine practices. A majority of Commissioners found that certain practices used by Google threatened competition and innovation, yet the FTC relied on voluntary commitments from Google to end those practices, instead of a consent order.

a. In your testimony, you expressed concern about the use of voluntary commitments to address anticompetitive violations. Can you please elaborate on that? What actions does the FTC intend to take to enforce Google's commitments?

b. In discussing potential remedies, some commentators noted the challenges involved in overseeing a technologically complex business practice that is constantly being updated, such as a search engine algorithm. How is the Commission responding to the challenges of enforcement in an online world?

c. In your testimony, you said that the FTC concluded that certain changes made by Google to its search engine algorithm were "pro-competitive" because they were "designed to improve the overall search experience for the user," even though they had the effect of negatively impacting rivals. Would your analysis have come out differently if the FTC had focused on the harm experienced by Google's other "users"; namely, the advertisers who pay to post ads on its site? How did the FTC determine its framework of analysis in assessing the procompetitive justifications of Google's conduct?

d. In light of the recent reports of action by your European counterpart authorities, is the FTC taking any further action in these matters?

Senator Klobuchar's Questions for the Record
Subcommittee on Antitrust, Competition Policy and Consumer Rights
"Oversight of the Enforcement of the Antitrust Laws"

For Chairwoman Ramirez:

1. In these tough budget times, we're asking every agency to do more with less. Can you explain to us the value that you think antitrust enforcement brings to consumers and the economy as a whole?

2. The Antitrust Division and the Federal Trade Commission share responsibility for government enforcement of the federal antitrust laws. Sometimes this leads to conflicts regarding which agency will review a merger, what is known as the "clearance process." In some cases, the agencies take a long time, sometimes nearly the entire length of the thirty day pre-merger waiting period, to decide which one will investigate a merger. This unnecessarily delays resolution of the merger investigation, and imposes unnecessary burdens on the merging parties.

    - What is your agency doing to resolve clearance disputes in a more effective way? Are you working with the Antitrust Division/FTC, as the Antitrust Modernization Commission suggested in 2007, to develop a new merger clearance agreement?

3. Recently, standard essential patents have been the subject of several cases filed at the International Trade Commission (ITC). We can all agree that standardization of technology and standard essential patents have been critical to the development of a competitive market for smartphones and tablets. But recently, concerns have been raised about the practice of bringing standard essential patents cases to the ITC seeking an exclusion order to prevent products with the patents from being imported into the U.S. Some worry that the ITC exclusion orders related to standard essential patents could gravely harm competition.

    - What sorts of negative effects might the use of exclusion orders regarding standard essential patents have on competition and consumer welfare in general?

    - Is there any justification for the use of exclusion orders in the context of standard essential patents?

Written Questions of Senator Chuck Grassley for Judiciary Antitrust Subcommittee Hearing "Oversight of the Enforcement of the Antitrust Laws", April 16, 2013

Questions for Federal Trade Commission Chairwoman Ramirez

1. As you know, I've been concerned about settlement agreements between brand name and generic drug manufacturers that result in a payment to the generic manufacturer and a delay in market entry of the generic drug. These "pay for delay" or "reverse payment" agreements result in consumers having to pay higher costs for their drugs. Senator Kolbuchar and I have introduced a bill, the Preserve Access to Affordable Generics Act, that would help put a stop to these anti-competitive agreements and ensure that lower priced generic drugs enter the market as soon as possible. Former Chairman Jon Leibowitz was very supportive of our efforts to address this anti-competitive practice.

    a. Do you agree that these "pay for delay" agreements harm consumers?

    b. Do you agree that these kinds of agreements still a problem?

    c. What is the FTC doing to prevent these kinds of agreements?

    d. Do you believe that the Klobuchar/Grassley legislation would help preserve generic drug competition and ensure that more affordable drugs get to consumers as expeditiously as possible?

"Oversight of the Enforcement of the Antitrust Laws"
Senate Antitrust Subcommittee Hearing
April 16, 2013

Written Questions
Senator Michael S. Lee

Questions for Chairwoman Ramirez

1. In 2008, the Department of Justice released a report on Section 2 of the Sherman Act. The report was later withdrawn. That report provided the business community with guidance on applicable principles in Section 2 enforcement actions.

    a. Do you agree with the 2008 report's findings and conclusions?

    b. If not, with which specific findings and conclusions do you disagree?

    c. Do you agree that it would be helpful for the business community to have formal guidance on the enforcement agencies' approach to Section 2 enforcement?

    d. Will you commit to work with Mr. Baer to develop and publish formal guidance on Section 2 enforcement?

2. The Federal Trade Commission, particularly under the previous Chairman, has been in the practice of reaching settlements in cases brought under Section 5 of the FTC Act. These settlements are not subsequently reviewed by a court to establish a clear record of Section 5 enforcement boundaries. At the same time, the Commission has yet to provide definitive guidance as to how Section 5 can be used to enforce unfair methods of competition beyond the traditional scope of antitrust laws.

    a. Do you plan to continue the practice of enforcing Section 5 by means of settlements outside of court review?

    b. How do you think a practice of open-ended enforcement might be perceived in foreign jurisdictions where basic rule of law principles are often lacking?

    c. What formal guidance will you provide the business community regarding Section 5 enforcement?

3. At our Subcommittee's hearing last week, in response to a question regarding Section 5 of the FTC Act, you stated that you believe the Commission "has been using its Section 5 authority very rigorously and very judiciously," and that the agency is providing some measure of guidance through the pattern of its decisions.

    a. If the Commission is applying Section 5 "cautiously" and wishes to provide useful enforcement guidance, why are you resistant to provide such guidance in a more comprehensive, published form upon which the business community and others can meaningfully rely?

4. Some have expressed concern that the Commission's approach to Section 5 enforcement has left many in the business community confused and uncertain as the contours of that provision and the breadth of possible enforcement actions.

    a. Do you believe that the Commission may use Section 5 to create convergence with U.S. antitrust doctrine and that of international jurisdictions?

    b. Do you believe the Commission may use Section 5 to place additional emphasis within U.S. competition policy on consumer choice as a touchstone of antitrust law?

    c. Do you believe the Commission may use Section 5 to bring actions that increasingly incorporate analysis and assumptions based on behavioral economics?

5. At our Subcommittee's hearing last week, you stated that you believe the standards used by the FTC and the DOJ for obtaining a preliminary injunction are "quite similar" and that "as a practical matter what each agency needs to do is go before a judge and show and provide evidence that backs up the charges that are being made." You further stated that you "believe it would be difficult to point to a specific situation where…a case would have led to a different outcome had it been handled by a different agency."

    a. In its 2007 Report and Recommendations, the Antitrust Modernization Commission wrote that the "FTC's ability to continue a merger case in administrative litigation also may lead companies whose transactions are investigated by the FTC to feel greater pressure to settle a matter than if they had been investigated by the DOJ."

        i. Should companies face greater pressure to settle if their mergers are reviewed by the FTC rather than the DOJ?

        ii. Do you agree that even the perception of a more lenient standard for FTC cases than those brought by the DOJ could result in a practical difference for litigants who must weigh litigation risk?

    b. The 2007 Report further states that differences in the preliminary injunction standards faced by the FTC and the DOJ, whether real or perceived, "can undermine the public's confidence that the antitrust agencies are reviewing mergers efficiently and fairly and that it does not matter which agency reviews a given merger."

        i. Do you agree that public confidence is important and can be affected by public perception of differing standards applied to identical issues?

        ii. Do you agree that it would be problematic if the identity of the reviewing agency led to different outcomes due to the parties' perception that the FTC and the DOJ face different standards for obtaining a preliminary injunction?

        iii. What measures do you believe appropriate to remedy any perceived or real inconsistency in the preliminary injunction standards faced by the agencies?

    c. In *FTC v. CCC Holdings*, the district court granted the FTC's request for a

preliminary injunction. The judge noted that although the defendants' arguments might "ultimately win the day," under Section 13(b) the trial court needed only to determine that "the FTC had raised questions that are so 'serious, substantial, difficult and doubtful' that they are 'fair ground for thorough investigation, study, deliberation and determination by the FTC'" to conclude that a preliminary injunction should issue. Commentators have written that "[t]he importance of the CCC Holdings decision therefore is not merely academic, and the resulting agency divergence is not merely procedural. It may be outcome determinative in some cases."[1]

i. Do you believe the standard applied by the district court in *FTC v. CCC Holdings* was the same as the preliminary injunction standard applicable to the DOJ in a merger case?

ii. Do you agree that application of that lower standard may have had an impact on the outcome of the case, in the sense that the outcome may have been different if the DOJ standard had been applied?

d. In the *Whole Foods* litigation, the FTC argued on appeal before the D.C. Circuit: "This Court has recognized, in keeping with the intent of Congress in creating the Commission and in enacting Section 13(b), that the Commission is not required to 'prove' any aspect of its case in order to secure a preliminary injunction in aid of its own adjudicative and remedial powers; rather, it need only show 'serious, substantial' questions requiring plenary administrative consideration. The district court's contrary approach ignores the statutory scheme, and effectively usurps the adjudicative role of the Commission."[2]

i. Do you contend the standard the Commission advanced in the *Whole Foods* appeal was the same standard DOJ has to meet in order to obtain a preliminary injunction in a merger case?

e. *FTC v. Libbey, Inc.*, 211 F. Supp.2d 34 (D.D.C. 2002), is another case in which a court applied a lower preliminary injunction standard to an FTC merger challenge than would have been applied if DOJ had brought the case.

i. Do you agree that the standard applied in that instance may have had an impact on the outcome of the case?

f. In February 2013, the Section of Antitrust Law of the American Bar Association issued a report entitled *Presidential Transition Report: The State of Antitrust Enforcement 2012*. The report commented that some circuits have relaxed the standard imposed on the FTC from the standard applicable to the DOJ. The Section noted that the standards applied in cases brought by the FTC differ from those in DOJ cases in other ways as well. The Section urged the FTC to adopt procedures "that will ensure that in merger cases it will seek injunctions only under the same equitable

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[1] Peter Love and Ryan C. Thomas, *FTC v. CCC Holdings: Message Received*, GCP (April 2009) at 10.
[2] http://www.ftc.gov/os/caselist/0710114/080114ftcwholefoodsproofbrief.pdf at 27.

standard for a preliminary injunction as that applied to Division injunction cases." Absent such procedures, the report urged the Administration "to seek legislative changes to Section 13(b) of the Federal Trade Commission Act that will make it consistent with traditional equitable standards for injunctive relief."

i. Will you commit to adopt procedures to ensure that the Commission only seeks preliminary injunctions under the same equitable standards that apply to DOJ actions?

ii. Would you support legislation to clarify that the FTC and the DOJ must satisfy identical standards to obtain a preliminary injunction?

iii. If you remain convinced that the differing standards applied to FTC and DOJ actions are "quite similar" and as a practical matter lead to little if any difference in outcome, what would be the harm in clarifying that the applicable standard is in fact the same or in establishing a unified standard?

6. At our Subcommittee's hearing last week, you expressed concern that an acceptance by the Commission of voluntary commitments, as opposed to a consent order, would create confusion over its settlement practices. You suggested that the Commission's acceptance of voluntary commitments by Google should not be considered precedent. Yet, other companies under investigation may believe they need not enter into binding consent decrees, instead asking to be treated by the Commission in the same manner as Google. In addition to an appearance of favoritism the Google agreement may create, I am concerned about informal and illegitimate regulatory creep when the Commission seeks to secure voluntary commitments from private companies. If a majority of commissioners finds a violation there should be a formal consent order. If a majority does not find a violation, the Commission has no authority to interfere in the market and should not pursue any enforcement action, whether voluntary or not.

   a. Now that the Commission has in fact negotiated and accepted a voluntary commitment in lieu of consent order, what specifically do you plan to do to correct perceptions and assumptions about future enforcement actions?

   b. If the Commission does not plan to follow the standard of settlement practices used in this case ever again, how will you respond to assertions that Google received special treatment from the Commission?

7. At our Subcommittee's hearing last week, you seemed to agree with me that voluntary commitments are an illegitimate approach for the Commission to use in seeking to resolve antitrust violations.

   a. Under your leadership, will the Commission move to correct this misstep and seek to embody Google's voluntary commitments in a formal consent order?

8. At our Subcommittee's hearing last week, you stated that if Google does not uphold and complete its voluntary commitments from the settlement, the Commission will take "appropriate action."

a. Given that there is no Commission precedent for dealing with this type of voluntary commitment, what specifically would that appropriate action entail?

b. Would such action require the Commission to undergo another complex and lengthy investigative proceeding, which could allow harmful business practices to continue undeterred until there is a formal settlement?

9. The Commission's closing statement in the Google matter concluded: "Challenging Google's product design decisions in this case would require the Commission – or court – to second-guess a firm's product design decisions where plausible procompetitive justifications have been offered, and where those justifications are supported by ample evidence." Similarly, Chairman Leibowitz's opening remarks stated: "Google's primary reason for changing the look and feel of its search results to highlight its own products was to improve the user experience."

a. This approach appears to differ from the standard set forth in the Microsoft case and the standard that you said the Commission used to evaluate Google's conduct. Under the Microsoft decision, the Commission, or a court, must examine whether "the anticompetitive effect of the challenged action outweighs [any proffered justification for the product design change]." United States v. Microsoft Corp, 253 F.3d 34, 67 (D.C. Cir. 2001). It would have required the Commission to apply a balancing test rather than concluding its analysis simply upon a finding that Google put forth a plausible business justification, as suggested by the Commission's closing statement and Chairman Leibowitz's remarks. Please explain this apparent inconsistency.

b. What standard will the Commission apply in the future to similar circumstances?

10. Several states have ongoing investigations of Google's conduct.

a. Did the Commission coordinate its legal and factual analysis with these states?

b. Did the Commission attempt to work with these states to obtain a coordinated settlement?

11. Google's practice of negotiating exclusionary syndication and distribution agreements was not addressed in the Commission's decision.

a. Did the Commission review this conduct?

b. If so, why was it not included in the Commission's final decision?

12. The Commission and the Department of Justice share enforcement of the antitrust laws, both in mergers and conduct investigations. It is not always clear to the parties involved who will review a transaction or business practice. In June 2011, then-Chairman Leibowitz told the Senate Commerce Committee: "It is true that there are occasional clearance disputes over which agency is in the better position to investigate a matter . . . . The FTC and DOJ have a process in place to resolve clearance disputes, which helps resolve the issue quickly." Please provide the Subcommittee:

a. The precise process(es) for resolving these disputes;

b. Examples of the types of agreements that the Commission and the Department have reached in merger and non-merger clearance disputes, including how the parties determine which agency will review a subsequent transaction involving the same company or industry and the duration of such agreements; and

c. The number of such disputes since January 2009 and the average length of time such disputes lasted.

13. The Commission has issued two recent orders that address the meaning of commitments to license on fair, reasonable, and non-discriminatory (FRAND) terms. In *Bosch*, the Commission embraced an order and remedy that many believe represented progress on this issue. A month later, the Commission adopted a more complicated order and remedy in the Google matter, criticized by some as being weak and riddled with loopholes.

    a. Why did the Commission seek such a complicated (and potentially weakened) remedy in the Google matter?

    b. Please explain your view of the *Bosch* decision.

        i. Are you concerned about using a merger review process to require relief on unrelated conduct as a condition for clearing the deal?

14. In the debate over standard essential patents and FRAND commitments, much discussion has focused on the willingness of potential licensees to engage in negotiations.

    a. In your view, what does it mean to be a willing licensee?

    b. Is a licensee unwilling simply because it refuses to accept a stated demand as FRAND or demands that the party demonstrate that its portfolio is composed of valid and infringed patents that have some value apart from its inclusion in the standard?

    c. There has been comparatively little focus on the willingness of SEP holders to engage in good faith negotiations—that is, whether the SEP holder is a willing licensor. Would you agree that there is a burden on the SEP holder to demonstrate the value of its SEP portfolio, a burden that is generally not discharged by merely quoting a rate, particularly when the rate clearly exceeds traditional industry benchmarks?

15. The Commission statement accompanying its decision relating to Google's abuse of certain standard essential patents indicated that "Google's settlement with the Commission requires Google to withdraw its claims for injunctive relief on FRAND encumbered patents around the world."

    a. How many of those claims for injunctive relief have been withdrawn and how many are still open?

    b. What is the Commission doing to ensure compliance with its Order?

16. In testimony before our Committee last July, you expressed concerns about anticompetitive abuse of standard essential patents and stated that the Commission "believes that the ITC has the authority under its public interest obligations . . . to deny an exclusion order if the holder of the FRAND-encumbered SEP has not complied with its FRAND obligation." You also suggested that if the ITC did not act appropriately, Congress should consider giving the ITC more flexibility to deny exclusion orders in such cases.

    a. In your view, has the ITC responded to the concerns you raised?

    b. Do you worry about ITC decisions in cases involving FRAND-encumbered SEPs, given that the only available ITC remedy is an exclusion order?

    c. Do you believe that enforcement action based on anticompetitive abuse of FRAND-encumbered SEPs could and should be pursued under Section 2 of the Sherman Act?

17. At our Subcommittee's hearing last week, there was much discussion of legislation that would impose a presumption that all patent settlements between innovator pharmaceutical companies and generic companies are anticompetitive. By statute, the Commission is already entitled to receive notice of such settlements, so it has ample opportunity to review such settlements for any anticompetitive problems. Both federal statute and Supreme Court case law state that patents are presumed to be valid. 35 U.S.C. § 282; *Microsoft Corp. v. i4i Limited Partnership*, 131 S.Ct. 2238 (2011). Indeed, patent invalidity must be proved by the elevated standard of clear and convincing evidence. *Microsoft*, 131 S.Ct. at 2252. In addition, it is well-settled law that settlements of litigation are highly favored. Yet, your position on patent settlements legislation seems to contradict quite squarely these two well-settled, time-tested principles.

    a. How can you reconcile your position with these principles, particularly when the settlement occurs within the term of the patent?

    b. Do you really believe that all such settlements are necessarily anticompetitive?

    c. Under what conditions might such a settlement be procompetitive in its effect?

18. The Commission's estimated cost savings associated with legislation providing the FTC with additional authorities to prevent parties from settling Hatch-Waxman patent litigation appears to differ from both Office of Management and Budget (OMB) numbers in the President's FY 2014 proposal and previous Congressional Budget Office (CBO) cost savings figures. In fact, there appear to be three entirely different estimates of what, if any, savings there may be.

    a. In light of these discrepancies, what effort has the Commission taken to coordinate information sharing of studies, proposals, or assumptions with OMB and CBO to determine the accuracy and validity of estimated cost savings?

    b. What information related to patent settlements has the Commission received from either CBO or OMB?

c. Has the Commission received any data or information from other public or private organization on patent settlements upon which it has relied in making assumptions about savings from patent settlements? If so, which entities?

19. Many in the IP community are concerned by the growing number of instances in which established operating companies transfer their patents to patent assertion entities (PAEs), so that these entities can target the established company's competitors. Some reports suggest that the operating companies often retain a revenue interest in the assertion of the transferred patents, which have included patents that are subject to commitments to license on FRAND terms. Last week, the Commission's directors of both economics and competition said that they support the issuance of a Section 6(b) order to investigate the PAE industry.

    a. Would you support such an order? If not, why not?

20. Both China and India have draft guidelines or policies that would make it an abuse of intellectual property rights for a dominant company unconditionally and unilaterally to refuse to license its critical intellectual property rights to a competitor who needs access to those rights to compete and innovate. These initiatives are clearly inconsistent with the DOJ's and FTC's Antitrust Guidelines for the Licensing of Intellectual Property, as well as U.S. case law, and could significantly harm innovative American companies operating overseas by undermining their intellectual property.

    a. What is the Commission doing about these broad intellectual property abuse policies that are emerging in key foreign jurisdictions?

    b. Because unconditional refusals to license strike at the heart of intellectual property rights, are you also working with USTR and the PTO to develop a holistic approach for influencing activities overseas?

    c. Are you concerned that open-ended tests for abuse may allow foreign governments to use antitrust policy as a backdoor means for usurping the intellectual property rights of U.S. companies?

21. Some have expressed concern about consumer harm in the prescription eyeglass and contact lens industry. Requiring consumers to obtain a prescription prior to purchasing a product impedes free market forces. Circumstances in which the prescriber is also the retailer of the prescribed product presents a conflict of interest that may lead to anticompetitive behavior. This is especially true when the product is prescribed by brand, locking a consumer into purchasing the brand selected by the prescriber. The Commission has historically taken steps to promote consumer choice in such markets, such as by promulgating the Eye Glass Rule in the late 1970s and the Contact Lens Rule, which implemented the Fairness to Contact Lens Consumers Act, nearly a decade ago. Both of these rules guarantee that upon completion of an eye exam, a consumer has the automatic right to receive copies of his prescriptions without having to make a request, pay a fee, or sign a waiver. These rules provide consumers with the opportunity to exercise that choice when buying contact lenses or eyeglasses.

a. Despite the requirement that patients receive eyeglass prescriptions including all "written specifications. . . necessary to obtain lenses for eyeglasses,"[3] pupillary distance (P/D) measurement is instead typically taken at the store where the eyeglasses are purchased. Now that eyeglasses are available online, it is important that P/D is included in prescriptions given consumers—as required by law—allowing them freedom to purchase eyeglasses where they want, whether at a brick-and-mortar store or online. To help ensure that consumers have this choice, will the Commission issue guidance reminding prescribers of their legal obligation to include on prescriptions all parameters necessary to produce lenses, including the P/D?

22. Under your predecessor, the Commission showed leadership in supporting the development of transparency and procedural fairness norms internationally. That work has been done in the OECD and is now being conducted in the ICN. It has also been incorporated into the Trans-Pacific Partnership and there will be an opportunity to do so in the US-EU Transatlantic Trade and Investment Partnership.

    a. What do you think about the need for increased transparency and due process in antitrust proceedings globally?

    b. Do you plan to continue to work in a similar vein as your predecessors in bringing these issues to forefront of the international antitrust policy debate?

23. Competition policy advocacy has traditionally been an important part of the Commission's role. As part of this function, the Commission recently sent comments to the Colorado PUC to discourage potential taxi regulations that would have had a negative impact on apps like Uber. You recently said that you hope to make the Commission's "research function" a priority during your term as Chair.

    a. Will you commit to devote the Commission's research and advocacy functions to support the development of new entrants to markets that bring competition to consumers and generally lower prices?

[3] 16 CFR 456.1(g).

PATRICK J. LEAHY, VERMONT, CHAIRMAN

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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275

April 30, 2013

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
Washington, DC

Dear Ms. Edith Ramirez:

Thank you for your testimony at the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights, hearing entitled "Oversight of the Enforcement of the Antitrust Laws" on April 16, 2013. Attached are written questions from Committee members. We look forward to including your answers to these questions, along with your hearing testimony, in the formal Committee record.

Please help us complete a timely and accurate hearing record by sending an electronic version of your responses to Melanie Kartzmer, Hearing Clerk, Senate Judiciary Committee, at Melanie_Kartzmer@judiciary-dem.senate.gov, no later than **May 14, 2013**.

Where circumstances make it impossible to comply with the two-week period provided for submission of answers, witnesses may explain in writing and request an extension of time to reply.

Again, thank you for your participation. If you have any questions, please contact Melanie at (202) 224-7703.

Sincerely,

Patrick Leahy

PATRICK LEAHY
Chairman

Questions for the Record for Chairwoman Edith Ramirez
Senator Patrick Leahy
Chairman, Senate Judiciary Committee

Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
"Oversight of the Enforcement of the Antitrust Laws"
April 16, 2013

1. **In 2012, the Government Accountability Office (GAO) issued a report concerning Federal oversight and self-regulation of Group Purchasing Organizations (GPOs). This area has long been of interest to the Judiciary Committee. After I raised concerns about the potential impact on patient costs of GPO contracting practices with the Justice Department in 2000, and the Department of Health and Human Services in 2001, the Antitrust Subcommittee held a series of hearings on GPO practices that culminated in a joint report by the Department of Justice and Federal Trade Commission in 2004. During the hearings, many expressed concern that fees paid by vendors to GPOs distort demand, resulting in higher prices for hospitals and consumers.**

   Although the Department of Justice and FTC have investigated complaints against various GPOs, since 2004 the Department has filed only one lawsuit against a GPO under the antitrust laws, and the FTC has filed none. The GAO's 2012 report observed: "While the oversight of GPOs is conducted through the exercise of investigatory authorities of HHS, DOJ, and FTC... this oversight does not address other key questions that have previously been raised about GPOs' activities. For example, inasmuch as the collection of contract administrative fees is permitted under the safe harbor provision to the Anti-Kickback statute and safe harbor regulation, this oversight cannot address whether or to what extent these fees create a financial incentive that is inconsistent with GPOs obtaining the lowest prices for their customers."

   Do you believe that the current legislative framework is sufficient to address the risk of undesirable conduct by GPOs that increases prices for consumers? Do you agree that the legal framework could be strengthened through other measures, such as revisiting the safe harbor for GPOs provided in the Anti-Kickback Statute?

   The FTC has authority to take action against GPOs if they were to engage in anticompetitive conduct in violation of the antitrust laws. For example, Commission staff have investigated allegations by medical device manufacturers that GPO contracting practices unreasonably foreclosed competition among rival manufacturers, which may discourage innovation and create a disincentive for GPOs to negotiate the lowest prices. The FTC will continue to review GPO conduct on a case-by-case basis as part of our mission to promote competition in health care markets and take action when the factual circumstances warrant it.

As your question acknowledges, some concerns raised by various parties regarding GPOs fall outside of the scope of the antitrust laws, including the role of the safe harbor in the Anti-Kickback statute. As you know, these concerns often center on the potential for "agency problems" and corporate governance issues, whereby GPO management may be enticed to enter into contracts that are not in the best interests of their members, as distinct from the antitrust issues that are the Commission's focus.

2. **Last year, I asked then-Commissioner Ramirez and the Acting Assistant Attorney General for Antitrust, Joseph Wayland, whether "patent trolling" behavior by certain patent-assertion entities could constitute an antitrust violation. Mr. Wayland responded: "Any effort by a patent owner to harm competition by improperly extending the exclusionary scope of its patent . . . may violate the antitrust laws, and allegations of such actions merit investigation." I was pleased that your agencies recently held a joint workshop to further investigate this question. How do your agencies intend to follow up on the workshop?**

The FTC and Department of Justice received almost 70 public comments in connection with our Patent Assertion Entities (PAE) workshop. We have been actively considering those comments and applying our learning from the workshop to evaluate potential next steps. If the FTC finds potentially anticompetitive conduct, we will investigate it using our authority under Section 5 of the FTC Act. In addition, PAE activity may be a suitable focus for Commission policy studies and competition advocacy. For example, patent system issues related to notice and remedies may promote PAE harms. The FTC will continue to recommend improvements to the system of patent notice and remedies, as well as other appropriate reform to the patent system, to address these issues going forward.

3. **In your testimony, you stated that the FTC has heard reports of patent assertion entities making unsubstantiated claims relative to small businesses. Unfortunately, I continue to hear frequently about this problem from small businesses in Vermont and across the country. What steps can the FTC take to address this conduct through its consumer protection authority? Will you agree to monitor such activity and take appropriate action to address abusive behavior by patent trolls?**

Yes, the FTC will continue to monitor PAE activity and, when appropriate, we will use our competition and consumer protection enforcement authority to prevent harmful practices by PAEs.

4. **Earlier this year, the FTC concluded its investigation of Google's search engine practices. A majority of Commissioners found that certain practices used by Google**

threatened competition and innovation, yet the FTC relied on voluntary commitments from Google to end those practices, instead of a consent order.

a. **In your testimony, you expressed concern about the use of voluntary commitments to address anticompetitive violations. Can you please elaborate on that? What actions does the FTC intend to take to enforce Google's commitments?**

The voluntary commitments made by Google should not be considered a precedent, but were a good outcome for consumers under the specific circumstances of that case.

Our policy long has been – and under my leadership, will continue to be – that when a majority of Commissioners finds reason to believe that a law we enforce has been violated and enforcement would be in the public interest, any remedy should be embodied in a formal consent order or adjudicated order.

In the Google matter, three of the Commissioners – myself included – were concerned that some of Google's conduct had the potential to restrict competition. A Commission majority did not, however, support an enforcement action on any of the allegations under investigation. Therefore, the Commission was not in a position to accept a formal consent agreement.

In a public letter to then-Chairman Leibowitz, Google responded to the concerns of some Commissioners with voluntary commitments. We expect Google to honor its commitments. Google has stated publicly that material violations of its commitments would be actionable under the FTC Act, and Google will submit periodic compliance reports to the Commission. We will use this and other information to monitor Google's activities.

b. **In discussing potential remedies, some commentators noted the challenges involved in overseeing a technologically complex business practice that is constantly being updated, such as a search engine algorithm. How is the Commission responding to the challenges of enforcement in an online world?**

As the Commission has demonstrated throughout its almost 100-year history, antitrust analysis is sufficiently flexible to accommodate the complexities of technological change in dynamic markets. To support our highly fact-based approach to antitrust enforcement, the Commission and its staff constantly strive to enhance our understanding of rapidly evolving technology markets. Staff's expertise deepens case-by-case, just as in other important markets. In addition, in 2010 the agency created a Chief Technologist position, which thus far has been filled by two notable academics with significant real-world experience. We also hire technical experts to work on staff or as consultants when needed.

c. **In your testimony, you said that the FTC concluded that certain changes made by Google to its search engine algorithm were "pro-competitive" because they were "designed to improve the overall search experience for the user," even though they had the effect of negatively impacting rivals. Would your analysis have come out differently if the FTC had focused on the harm experienced by Google's other "users"; namely, the advertisers who pay to post ads on its site? How did the FTC determine its framework of analysis in assessing the procompetitive justifications of Google's conduct?**

Our analysis focused on the impact of Google's conduct on both consumers and advertisers because they are so closely intertwined. While Google focuses its search product on the search needs and buying preferences of consumers, it does so in order to attract advertisers. As discussed in the Commission's statement, we carefully considered the potential long-term effects of Google's conduct on so-called "vertical" websites, which might be viewed as current or potential rivals in markets for search and search advertising.

d. **In light of the recent reports of action by your European counterpart authorities, is the FTC taking any further action in these matters?**

We have worked closely with the EC's Directorate General for Competition ("DG Comp") for many years, and our staffs cooperated extensively throughout the Google investigation as well. We do not anticipate any further FTC action on the Google search matter.

Questions for the Record for Chairwoman Edith Ramirez
Senator Chuck Grassley
Senate Judiciary Committee

Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
"Oversight of the Enforcement of the Antitrust Laws"
April 16, 2013

1. **As you know, I've been concerned about settlement agreements between brand name and generic drug manufacturers that result in a payment to the generic manufacturer and a delay in market entry of the generic drug. These "pay for delay" or "reverse payment" agreements result in consumers having to pay higher costs for their drugs. Senator Klobuchar and I have introduced a bill, the Preserve Access to Affordable Generics Act, that would help put a stop to these anti-competitive agreements and ensure that lower priced generic drugs enter the market as soon as possible. Former Chairman Jon Leibowitz was very supportive of our efforts to address this anti-competitive practice.**

   a. **Do you agree that these "pay for delay" agreements harm consumers?**

   Yes, pay-for-delay agreements pose a substantial threat to consumers. Agreements in which generic drug companies are paid to delay market entry of their products deprive consumers of the ability to choose lower cost medications – often for many years – and impose considerable costs on consumers and the government. FTC economists analyzed data from settlements reported to the FTC during 2004-2009 and calculated, using conservative assumptions, that pay-for-delay patent litigation settlements cost drug purchasers roughly $3.5 billion a year.[1]

   b. **Do you agree that these kinds of agreements are still a problem?**

   I do, and it seems the agreements are a growing problem. FTC staff analyzed settlements filed pursuant to the provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). The results show a steady increase in the number of agreements containing both a restriction on market entry by the generic drug manufacturer and compensation from the branded drug firm to the generic drug company, from zero in FY 2004 to forty in FY 2012.[2]

[1] Federal Trade Commission Staff, *Pay for Delay: How Drug Company Pay-Offs Cost Consumers Billions* (January 2010), at 8-10.
[2] Federal Trade Commission Staff, *Agreements Filed with the Federal Trade Commission under the Medicare Prescription Drug, Improvement, and Modernization Act* (FY 2012), http://www.ftc.gov/os/2013/01/130117mmareport.pdf.

c. What is the FTC doing to prevent these kinds of agreements?

The FTC currently has two law enforcement actions challenging pay-for-delay agreements. *FTC v. Actavis* is currently pending before the U.S. Supreme Court, with a decision expected to issue by the end of June. In the *Cephalon* case, the U.S. District Court for the Eastern District of Pennsylvania is awaiting the Supreme Court decision in *Actavis* before moving forward. Additionally, FTC staff continue to review every agreement reported to the agency pursuant to the MMA and have opened additional non-public investigations.

d. Do you believe that the Klobuchar/Grassley legislation would help preserve generic drug competition and ensure that more affordable drugs get to consumers as expeditiously as possible?

I do, and I strongly support this legislation. By declaring that pay-for-delay arrangements are presumptively illegal and requiring clear and convincing evidence to overcome that presumption, the Klobuchar/Grassley bill should help to protect consumers by deterring drug companies from entering into anticompetitive patent settlements.

Questions for the Record for Chairwoman Edith Ramirez
Senator Amy Klobuchar
Senate Judiciary Committee

Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
"Oversight of the Enforcement of the Antitrust Laws"
April 16, 2013

1. **In these tough budget times, we're asking every agency to do more with less. Can you explain to us the value that you think antitrust enforcement brings to consumers and the economy as a whole?**

   Vigorous competition is a fundamental organizing principle of the U.S. economy. During financially troubled times, conscientious antitrust enforcement remains a good investment for the American people because it helps to support and strengthen our economy. Competitive markets yield lower prices, improved quality, and other benefits for consumers, including both individuals and businesses. Competition also promotes innovation, providing incentives and opportunities for the development of new goods and services.

   The Commission, with its highly professional and dedicated staff, strives to be a good steward of the resources entrusted to us. As one example of the value we deliver to consumers, in FY 2012 the FTC's efforts to prevent anticompetitive mergers saved consumers approximately thirteen times the amount of resources devoted to the agency's merger enforcement program.[3]

2. **The Antitrust Division and the Federal Trade Commission share responsibility for government enforcement of the federal antitrust laws. Sometimes this leads to conflicts regarding which agency will review a merger, what is known as the "clearance process." In some cases, the agencies take a long time, sometimes nearly the entire length of the thirty day pre-merger waiting period, to decide which one will investigate a merger. This unnecessarily delays resolution of the merger investigation, and imposes unnecessary burdens on the merging parties.**

   a. **What is your agency doing to resolve clearance disputes in a more effective way? Are you working with the Antitrust Division/FTC, as the Antitrust Modernization Commission suggested in 2007, to develop a new merger clearance agreement?**

      Clearance disputes are rare, and there is a process in place to resolve, in a timely and professional way, the few that arise. Staff at both agencies are alert to the

[3] Federal Trade Commission, Performance and Accountability Report, FY 2012, at 14, *available at* http://www.ftc.gov/opp/gpra/2012parreport.pdf.

time-sensitivity of clearance and HSR review. We are all working to minimize clearance disputes and associated delays, and the recent ABA Antitrust Section Transition Report released in February finds that "delays due to clearance battles have been reduced."[4] Nonetheless, we can always do better, and Assistant Attorney General Bill Baer and I have agreed that we will both make this issue a priority.

3. **Recently, standard essential patents have been the subject of several cases filed at the International Trade Commission (ITC). We can all agree that standardization of technology and standard essential patents have been critical to the development of a competitive market for smartphones and tablets. But recently, concerns have been raised about the practice of bringing standard essential patents cases to the ITC seeking an exclusion order to prevent products with the patents from being imported into the U.S. Some worry that the ITC exclusion orders related to standard essential patents could gravely harm competition.**

   a. **What sorts of negative effects might the use of exclusion orders regarding standard essential patents have on competition and consumer welfare in general?**

   I am concerned that a patentee might voluntarily commit to license its intellectual property on fair, reasonable, and non-discriminatory (FRAND) terms as part of the standard-setting process, and then escape that licensing obligation by seeking an exclusion order for infringement of the FRAND-encumbered standard essential patent (SEP). The threat of the exclusion order undercuts the procompetitive goals of the FRAND commitment and the standard-setting process. A potential licensee is likely to accept an unreasonable royalty demand if the alternative is an order that blocks its products from the market. Even a relatively small risk of that disruptive outcome can force an implementer to accept licensing terms that far exceed what it would have paid to license the patent before the standard was adopted.

   More broadly, unexpectedly high costs undermine the competitive value of the standard-setting process. And the uncertainty associated with the threat of an injunction can have the long-term impact of discouraging firms from investing to implement the standard, or to invest in standard-compliant products more generally.

[4] American Bar Association, Section of Antitrust Law, *Presidential Transition Report: The State of Antitrust Enforcement 2012* (Feb. 2013), at 12, *available at* http://www.americanbar.org/content/dam/aba/administrative/antitrust_law/at_comments_presidential_201302.authcheckdam.pdf.

b. Is there any justification for the use of exclusion orders in the context of standard essential patents?

While injunctive relief in most cases should be unavailable for infringement of a SEP covered by a FRAND commitment, this should not be a blanket rule in all cases. One likely exception would cover foreign manufacturers with an insufficient presence in the United States to support federal court jurisdiction. In that instance, a patent holder could not obtain damages for infringement of a valid patent in a U.S. district court, and an ITC exclusion order might be warranted.

Questions for the Record for Chairwoman Edith Ramirez
Senator Michael S. Lee
Senate Judiciary Committee

Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
"Oversight of the Enforcement of the Antitrust Laws"
April 16, 2013

1. **In 2008, the Department of Justice released a report on Section 2 of the Sherman Act. The report was later withdrawn. That report provided the business community with guidance on applicable principles in Section 2 enforcement actions.**

   a. **Do you agree with the 2008 report's findings and conclusions?**

   b. **If not, with which specific findings and conclusions do you disagree?**

   c. **Do you agree that it would be helpful for the business community to have formal guidance on the enforcement agencies' approach to Section 2 enforcement?**

   d. **Will you commit to work with Mr. Baer to develop and publish formal guidance on Section 2 enforcement?**

   The Commission did not join or endorse the Section 2 Report when it was released by the Department of Justice, and various Commissioners issued statements explaining their concerns. I was not a Commissioner at the time, but I share the concerns of the Commissioners who declined to endorse the Report.

   The two agencies' extensive joint hearings that provided the foundation for the Report, along with the statements of the then-Commissioners, made an important contribution to the development of antitrust law. The hearings brought together experts with a wide range of views to discuss important doctrinal and policy questions related to single firm conduct. The record of these hearings (available on the FTC website) and several posted FTC staff working papers continue to provide guidance for businesses and their counsel on various types of conduct.

   In addition, as Assistant Attorney General Bill Baer testified at the hearing, a series of U.S. Supreme Court and D.C. Circuit court opinions provide valuable guidance about how to apply Section 2. As courts continue to apply these analytical approaches to different sets of facts, the law will continue to evolve.

   The antitrust laws should not be applied in ways that might impose liability on firms for achieving marketplace success as a result of their superior products, services, or business models. Likewise, we should not tolerate market power

achieved or maintained via conduct that does not reflect competition on the merits and impairs competition or the competitive process.

Striking the appropriate balance, based on specific factual circumstances and sound economic theory, will help to ensure that markets operate efficiently, that innovation is promoted, and that all firms are encouraged to compete on the merits. We can most effectively satisfy these goals by continuing on our present course: first, to develop sound and predictable principles through case-by-case enforcement; and second, to engage in advocacy (such as amicus briefs) to support competition on the merits and oppose conduct that poses a significant threat of harm to competition or the competitive process.

2. **The Federal Trade Commission, particularly under the previous Chairman, has been in the practice of reaching settlements in cases brought under Section 5 of the FTC Act. These settlements are not subsequently reviewed by a court to establish a clear record of Section 5 enforcement boundaries. At the same time, the Commission has yet to provide definitive guidance as to how Section 5 can be used to enforce unfair methods of competition beyond the traditional scope of antitrust laws.**

   a. **Do you plan to continue the practice of enforcing Section 5 by means of settlements outside of court review?**

   b. **How do you think a practice of open-ended enforcement might be perceived in foreign jurisdictions where basic rule of law principles are often lacking?**

   c. **What formal guidance will you provide the business community regarding Section 5 enforcement?**

   As with the Sherman Act and the Clayton Act, Section 5 of the FTC Act has been developed over time, case-by-case, in the manner of common law. These precedents provide the Commission and the business community with important guidance regarding the appropriate scope and use of the FTC's Section 5 authority.

   For various reasons, including resource constraints, the Commission may – and often does – decide that it is in the public interest to settle a case, in exchange for a binding agreement to stop the allegedly harmful conduct. Parties before the agency, too, often prefer to settle cases for a variety of business reasons. Importantly, the possibility of settlement does not affect the rigor that we apply in choosing appropriate Section 5 enforcement actions, and the documents typically made public at the time of settlement provide significant guidance regarding the Commission's theory of harm.

3. **At our Subcommittee's hearing last week, in response to a question regarding Section 5 of the FTC Act, you stated that you believe the Commission "has been using its Section 5 authority very rigorously and very judiciously," and that the agency is providing some measure of guidance through the pattern of its decisions.**

   a. **If the Commission is applying Section 5 "cautiously" and wishes to provide useful enforcement guidance, why are you resistant to provide such guidance in a more comprehensive, published form upon which the business community and others can meaningfully rely?**

   Case-specific guidance, grounded in detailed facts and sound economic theory, is likely the most useful form of guidance for the business community and lawyers advising the business community. Due to the fact-based nature of antitrust cases, as well as our need to retain flexibility to use Section 5 to protect competition and consumers as markets and economic learning evolve, any non-case-specific guidance document would necessarily be far more general, and thus less useful.

   However, we can always strive to be more transparent regarding our enforcement philosophy and case selection priorities. I will continue to engage in a dialogue with my fellow Commissioners and the business community in pursuit of that goal.

4. **Some have expressed concern that the Commission's approach to Section 5 enforcement has left many in the business community confused and uncertain as the contours of that provision and the breadth of possible enforcement actions.**

   a. **Do you believe that the Commission may use Section 5 to create convergence with U.S. antitrust doctrine and that of international jurisdictions?**

   b. **Do you believe the Commission may use Section 5 to place additional emphasis within U.S. competition policy on consumer choice as a touchstone of antitrust law?**

   c. **Do you believe the Commission may use Section 5 to bring actions that increasingly incorporate analysis and assumptions based on behavioral economics?**

   In my view, the Agency's work on international convergence should focus on the promotion of fair processes and transparency in all jurisdictions, along with efforts to develop and share rigorous analytical tools and common approaches to difficult antitrust issues. As we already have seen in recent years, continued international convergence generates substantial benefits for businesses and consumers. While convergence may tend to lead to similar outcomes, convergence neither contemplates nor requires identical rules of decision or identical outcomes. I do not intend to use Section 5 as a mechanism to create

international convergence with respect to substantive outcomes. The FTC will continue to enforce U.S. laws, applying U.S. legal standards.

In our application of Section 5, as in our application of the antitrust laws generally, we work to use, but not go beyond, state-of the-art economic techniques that are rigorous and well-accepted for identifying competitive effects and efficiencies. The range of recognized harms and benefits from mergers or other competitive conduct may of course include non-price effects, such as those related to product quality or innovation.

5. **At our Subcommittee's hearing last week, you stated that you believe the standards used by the FTC and the DOJ for obtaining a preliminary injunction are "quite similar" and that "as a practical matter what each agency needs to do is go before a judge and show and provide evidence that backs up the charges that are being made." You further stated that you "believe it would be difficult to point to a specific situation where...a case would have led to a different outcome had it been handled by a different agency."**

   a. **In its 2007 Report and Recommendations, the Antitrust Modernization Commission wrote that the "FTC's ability to continue a merger case in administrative litigation also may lead companies whose transactions are investigated by the FTC to feel greater pressure to settle a matter than if they had been investigated by the DOJ."**

      i. **Should companies face greater pressure to settle if their mergers are reviewed by the FTC rather than the DOJ?**

      ii. **Do you agree that even the perception of a more lenient standard for FTC cases than those brought by the DOJ could result in a practical difference for litigants who must weigh litigation risk?.**

   b. **The 2007 Report further states that differences in the preliminary injunction standards faced by the FTC and the DOJ, whether real or perceived, "can undermine the public's confidence that the antitrust agencies are reviewing mergers efficiently and fairly and that it does not matter which agency reviews a given merger."**

      i. **Do you agree that public confidence is important and can be affected by public perception of differing standards applied to identical issues?**

      ii. **Do you agree that it would be problematic if the identity of the reviewing agency led to different outcomes due to the parties' perception that the FTC and the DOJ face different standards for obtaining a preliminary injunction?**

iii. **What measures do you believe appropriate to remedy any perceived or real inconsistency in the preliminary injunction standards faced by the agencies?**

Although some in the antitrust community perceive that the FTC and Department of Justice Antitrust Division face different preliminary injunction standards to enjoin pending mergers, as Assistant Attorney General Baer and I both testified, this has not been our experience. While the wording may differ, there appears to be no evidence that the substantive standard varies, or that any perceived difference has influenced the outcome of any specific case.

Public confidence in the agency is important, and the FTC has sought to address the perception that any procedural differences between the two agencies could affect outcomes. Since the Antitrust Modernization Commission issued its 2007 report, the Commission has revised its administrative adjudicative process to, among other things, impose significantly shorter deadlines. As a result, while the litigation process may differ between the two agencies, the time frames from complaint to final resolution in merger matters are now, on average, about the same for a federal district court decision in an Antitrust Division matter and an FTC adjudicative decision. Furthermore, the same substantive Clayton Act Section 7 legal standards apply regardless of whether the adjudicator is the Commission or a federal district court.

c. **In *FTC v. CCC Holdings*, the district court granted the FTC's request for a preliminary injunction. The judge noted that although the defendants' arguments might "ultimately win the day," under Section 13(b) the trial court needed only to determine that "the FTC had raised questions that are so 'serious, substantial, difficult and doubtful' that they are 'fair ground for thorough investigation, study, deliberation and determination by the FTC'" to conclude that a preliminary injunction should issue. Commentators have written that "[t]he importance of the CCC Holdings decision therefore is not merely academic, and the resulting agency divergence is not merely procedural. It may be outcome determinative in some cases."[5]**

i. **Do you believe the standard applied by the district court in *FTC v. CCC Holdings* was the same as the preliminary injunction standard applicable to the DOJ in a merger case?**

ii. **Do you agree that application of that lower standard may have had an impact on the outcome of the case, in the sense that the outcome may have been different if the DOJ standard had been applied?**

[5] Peter Love & Ryan C. Thomas, *FTC v. CCC Holdings: Message Received*, GCP (April 2009), at 10.

d. In the *Whole Foods* litigation, the FTC argued on appeal before the D.C. Circuit: "This Court has recognized, in keeping with the intent of Congress in creating the Commission and in enacting Section 13(b), that the Commission is not required to 'prove' any aspect of its case in order to secure a preliminary injunction in aid of its own adjudicative and remedial powers; rather, it need only show 'serious, substantial' questions requiring plenary administrative consideration. The district court's contrary approach ignores the statutory scheme, and effectively usurps the adjudicative role of the Commission."[6]

i. Do you contend the standard the Commission advanced in the *Whole Foods* appeal was the same standard DOJ has to meet in order to obtain a preliminary injunction in a merger case?

e. *FTC v. Libbey, Inc.*, 211 F. Supp.2d 34 (D.D.C. 2002), is another case in which a court applied a lower preliminary injunction standard to an FTC merger challenge than would have been applied if DOJ had brought the case.

i. Do you agree that the standard applied in that instance may have had an impact on the outcome of the case?

Although various courts considering the appropriate standard have stated it in different ways, the core focus of the preliminary injunction standard for both agencies is the same: a strong evidentiary presentation by the agency, which a defendant fails to rebut. *See, e.g., FTC v. H.J. Heinz Co.*, 246 F.3d 708, 714 (D.C. Cir. 2001) (recognizing that government agencies bear a different preliminary injunction burden than private parties when enforcing federal laws). In addition, as the joint Horizontal Merger Guidelines indicate, the two agencies apply the same analytical framework to merger review. Any differences in merger challenge outcomes are a consequence of specific underlying facts and the strength of the evidence in individual cases. They do not result from a difference (real or perceived) in preliminary injunction standards, and they are not agency-dependent.

With regard to the specific cases you raise, I do not believe that the courts applied a more lenient preliminary injunction standard or that outcomes were affected as a result. For example, in *FTC v. CCC Holdings*, the court relied on *Heinz* for the relevant standard applicable to a FTC preliminary injunction, *i.e.*, that governmental plaintiffs like the FTC face a lower standard than private parties, and emphasized that "ultimate success" requires a showing that the effect of a merger "may be substantially to lessen competition, or tend to create a monopoly" – the same test that applies to the Antitrust Division. 605 F. Supp. 2d 26, 30 (D.D.C. 2009).

[6] http://www.ftc.gov/os/caselist/0710114/080114ftcwholefoodsproofbrief.pdf at 27.

It is also important to recognize that the language used in *CCC Holdings* regarding the sufficiency of showing a likelihood of success by raising serious, substantial questions is a formulation adopted by many courts beginning in the late 1970s. See, *e.g.*, *FTC v. Beatrice Foods Co.*, 587 F.2d 1225, 1229 (D.C. Cir. 1978) (statement of Judges MacKinnon and Robb); *FTC v. Nat'l Tea Co.*, 603 F.2d 694, 698 (8th Cir. 1979); *FTC v. Warner Commc'ns Inc.*, 742 F.2d 1156, 1162 (9th Cir. 1984); *FTC v. Univ. Health*, 938 F.2d 1206, 1218 (11th Cir. 1991); *Heinz*, 246 F.3d at 714-15. In all of these cases, the FTC was required to make a persuasive evidentiary showing of a prima facie case that withstood the defendant's rebuttal. Where the FTC has not made such a showing, the agency's motion for a preliminary injunction has been denied. See, *e.g.*, *FTC v. Laboratory Corp. of Am.*, No. SACV 10-1873 AG, 2011 WL 3100372 (C.D. Cal. Mar. 11, 2011); *FTC v. Foster*, No. CIV 07-352 JBACT, 2007 WL 1793441 (D.N.M. May 29, 2007); *FTC v. ArchCoal Corp.*, 329 F. Supp. 2d 109 (D.D.C. 2004). With regard to the language you quote from the FTC's brief in the *Whole Foods* appeal, the FTC was merely clarifying that the court should not impose, in evaluating a preliminary injunction request, a requirement that the FTC prove the ultimate success of its case, which is the proper standard for a *permanent*, not a *preliminary*, injunction.

f. In February 2013, the Section of Antitrust Law of the American Bar Association issued a report entitled *Presidential Transition Report: The State of Antitrust Enforcement 2012*. The report commented that some circuits have relaxed the standard imposed on the FTC from the standard applicable to the DOJ. The Section noted that the standards applied in cases brought by the FTC differ from those in DOJ cases in other ways as well. The Section urged the FTC to adopt procedures "that will ensure that in merger cases it will seek injunctions only under the same equitable standard for a preliminary injunction as that applied to Division injunction cases." Absent such procedures, the report urged the Administration "to seek legislative changes to Section 13(b) of the Federal Trade Commission Act that will make it consistent with traditional equitable standards for injunctive relief."

i. Will you commit to adopt procedures to ensure that the Commission only seeks preliminary injunctions under the same equitable standards that apply to DOJ actions?

ii. Would you support legislation to clarify that the FTC and the DOJ must satisfy identical standards to obtain a preliminary injunction?

iii. If you remain convinced that the differing standards applied to FTC and DOJ actions are "quite similar" and as a practical matter lead to little if any difference in outcome, what would be the harm in

clarifying that the applicable standard is in fact the same or in establishing a unified standard?

In light of the fact that courts already apply what amounts to the same legal standard to preliminary injunction requests by both FTC and Antitrust Division, I do not believe the FTC needs to change its procedures. For the same reason, I do not believe there is any need for legislation altering the FTC standard.

6. **At our Subcommittee's hearing last week, you expressed concern that an acceptance by the Commission of voluntary commitments, as opposed to a consent order, would create confusion over its settlement practices. You suggested that the Commission's acceptance of voluntary commitments by Google should not be considered precedent. Yet, other companies under investigation may believe they need not enter into binding consent decrees, instead asking to be treated by the Commission in the same manner as Google. In addition to an appearance of favoritism the Google agreement may create, I am concerned about informal and illegitimate regulatory creep when the Commission seeks to secure voluntary commitments from private companies. If a majority of commissioners finds a violation there should be a formal consent order. If a majority does not find a violation, the Commission has no authority to interfere in the market and should not pursue any enforcement action, whether voluntary or not.**

   a. **Now that the Commission has in fact negotiated and accepted a voluntary commitment in lieu of consent order, what specifically do you plan to do to correct perceptions and assumptions about future enforcement actions?**

   b. **If the Commission does not plan to follow the standard of settlement practices used in this case ever again, how will you respond to assertions that Google received special treatment from the Commission?**

      The voluntary commitments made by Google should not be considered a precedent, but were a good outcome for consumers under the specific circumstances of that case.

      Our policy long has been – and under my leadership, will continue to be – that when a majority of Commissioners finds reason to believe a law we enforce has been violated, and enforcement would be in the public interest, any remedy should be embodied in a formal consent order or adjudicated order.

      In the Google search matter, three of the Commissioners – myself included – were concerned that some of Google's conduct had the potential to restrict competition. A Commission majority did not, however, support an enforcement action on any of the allegations under investigation. Therefore, the Commission was not in a position to accept a formal consent agreement. Google received no special

treatment. Indeed, Google faced an extremely comprehensive inquiry as the Commission and its staff collected and analyzed a broad and complex set of facts under the reason to believe standard. Ultimately, in a letter to then-Chairman Leibowitz, Google responded to concerns about some of their business practices with voluntary commitments, a step that will likely benefit consumers.

7. **At our Subcommittee's hearing last week, you seemed to agree with me that voluntary commitments are an illegitimate approach for the Commission to use in seeking to resolve antitrust violations.**

   a. **Under your leadership, will the Commission move to correct this misstep and seek to embody Google's voluntary commitments in a formal consent order?**

   Whenever a Commission majority finds reason to believe that violation of the law has occurred, and an enforcement action is in the public interest, I will make every effort to pursue formal agency action. Formal action through an enforcement proceeding or a consent decree is the most effective way for the Commission to enforce the antitrust laws. As noted above, however, the Commission was not in a position to accept a formal consent in the Google matter.

   We nonetheless expect Google to honor its commitments. Google has stated publicly that material violations of its commitments would be actionable under the FTC Act, and Google will submit periodic compliance reports to the Commission. We will use this and other information to monitor Google's activities, and will take appropriate action if Google does not abide by its commitments.

8. **At our Subcommittee's hearing last week, you stated that if Google does not uphold and complete its voluntary commitments from the settlement, the Commission will take "appropriate action."**

   a. **Given that there is no Commission precedent for dealing with this type of voluntary commitment, what specifically would that appropriate action entail?**

   b. **Would such action require the Commission to undergo another complex and lengthy investigative proceeding, which could allow harmful business practices to continue undeterred until there is a formal settlement?**

   As part of its commitments, Google not only agreed to stop the troubling conduct, but also stated publicly that material violations of the commitments would be actionable under the FTC Act for a period of at least five years. The Commission will make every effort to hold Google to those commitments.

9. **The Commission's closing statement in the Google matter concluded: "Challenging Google's product design decisions in this case would require the Commission – or court – to second-guess a firm's product design decisions where plausible procompetitive justifications have been offered, and where those justifications are supported by ample evidence." Similarly, Chairman Leibowitz's opening remarks stated: "Google's primary reason for changing the look and feel of its search results to highlight its own products was to improve the user experience."**

   a. **This approach appears to differ from the standard set forth in the Microsoft case and the standard that you said the Commission used to evaluate Google's conduct. Under the Microsoft decision, the Commission, or a court, must examine whether "the anticompetitive effect of the challenged action outweighs [any proffered justification for the product design change]." United States v. Microsoft Corp, 253 F.3d 34, 67 (D.C. Cir. 2001). It would have required the Commission to apply a balancing test rather than concluding its analysis simply upon a finding that Google put forth a plausible business justification, as suggested by the Commission's closing statement and Chairman Leibowitz's remarks. Please explain this apparent inconsistency.**

   b. **What standard will the Commission apply in the future to similar circumstances?**

      The Commission's Google investigation was guided by the precedent established in the D.C. Circuit's *Microsoft* decision, along with the existing, well-developed body of federal case law governing monopolization and product design. We carefully investigated whether Google's conduct harmed the competitive process. A majority of the Commission concluded, based on ample evidence, that Google's design changes were procompetitive because they improved the overall search experience for the user – even though the conduct also had some negative impact on competing search engines.

      The Commission will continue to follow *Microsoft* and related case law when assessing allegations of harm from unilateral conduct. The Commission will carefully review and assess any actual or probable harm to competition and the competitive process, on the one hand, and the likely consumer benefits of the challenged conduct, on the other. In my view, a monopolist cannot escape antitrust liability simply by putting forward any plausible explanation for its exclusionary conduct.

10. **Several states have ongoing investigations of Google's conduct.**

a. Did the Commission coordinate its legal and factual analysis with these states?

b. Did the Commission attempt to work with these states to obtain a coordinated settlement?

The Commission frequently coordinates its investigations with state enforcers, sharing resources and information, and we did so during our investigation of Google's conduct. Among other things, state enforcement personnel attended investigational hearings with Google executives and participated in conference calls and meetings where complainants provided us with information. FTC staff also regularly briefed state personnel on the progress and direction of our investigation, and these discussions enhanced the Commission's review.

In many cases, our cooperation with state enforcers culminates in a coordinated settlement that resolves both Commission and states' concerns. In the end, however, each public enforcer must make its own enforcement and settlement decisions. As a matter of prosecutorial discretion, and in the interest of conserving scarce investigative resources, the Commission unanimously determined to close our investigation.

11. Google's practice of negotiating exclusionary syndication and distribution agreements was not addressed in the Commission's decision.

a. Did the Commission review this conduct?

b. If so, why was it not included in the Commission's final decision?

The Commission extensively investigated these issues, but in the end determined an enforcement action was not warranted. The Commission does not routinely comment publicly on decisions to close investigations. In this case, the Commission determined that a closing statement focused mainly on the search bias allegations would provide useful transparency and guidance to the public and the antitrust bar, due to the novel nature of the claims and the exceptionally high level of public interest.

12. The Commission and the Department of Justice share enforcement of the antitrust laws, both in mergers and conduct investigations. It is not always clear to the parties involved who will review a transaction or business practice. In June 2011, then-Chairman Leibowitz told the Senate Commerce Committee: "It is true that there are occasional clearance disputes over which agency is in the better position to investigate a matter . . . . The FTC and DOJ have a process in place to resolve clearance disputes, which helps resolve the issue quickly." Please provide the Subcommittee:

a. **The precise process(es) for resolving these disputes;**

b. **Examples of the types of agreements that the Commission and the Department have reached in merger and non-merger clearance disputes, including how the parties determine which agency will review a subsequent transaction involving the same company or industry and the duration of such agreements; and**

c. **The number of such disputes since January 2009 and the average length of time such disputes lasted.**

Due to the shared antitrust jurisdiction of the FTC and the Department of Justice Antitrust Division, all proposed merger and conduct investigations are formally submitted to the other agency as a "clearance request" through a shared database. Until the other agency approves or "clears" the request, no formal investigation may commence and no parties or third parties may be contacted. Most investigations are submitted and cleared within two business days. When both agencies make a request to investigate the same merger transaction or conduct, this is called a "contested matter."

I understand that since January 2009, there have been 90 instances in which both the Antitrust Division and the FTC were interested in reviewing the same Hart-Scott-Rodino notified transaction. In those instances, it took an average of five business days for the agencies to agree which agency should handle the investigation.

Most of the time, clearance contests are resolved through an informal exchange of information regarding each agency's expertise. This is done by the designated Clearance Officers at each agency, working with investigative staff, by e-mail or telephone. The Clearance Officers are career staff with knowledge of the agency's work. If the Clearance Officers cannot resolve a matter informally, each agency prepares a clearance "claim," a memorandum explaining why it has the better expertise, gained from past investigations, to investigate the particular matter.

If clearance cannot be resolved by the agencies' Clearance Officers, it is escalated to the Deputy Director of the Bureau of Competition at the FTC and the Director of Civil Enforcement at the Antitrust Division for resolution, and if still unresolved, to the heads of the agencies. This level of escalation is extremely rare.

We are all working to minimize clearance disputes and associated delays. The recent ABA Antitrust Section Transition Report released in February found that "delays due to clearance battles have been reduced." Nonetheless, we can always do better. Assistant Attorney General Bill Baer and I have spoken about this issue

recently, and we both agree that one of our priorities is to continue to minimize such disputes to ensure that the clearance process is both fair and efficient.

13. The Commission has issued two recent orders that address the meaning of commitments to license on fair, reasonable, and non-discriminatory (FRAND) terms. In *Bosch*, the Commission embraced an order and remedy that many believe represented progress on this issue. A month later, the Commission adopted a more complicated order and remedy in the Google matter, criticized by some as being weak and riddled with loopholes.

a. Why did the Commission seek such a complicated (and potentially weakened) remedy in the Google matter?

The FTC's *Bosch* and *Google* consent orders continue the Commission's longstanding commitment to safeguard the integrity of the standard-setting process. Standard setting can deliver substantial benefits to American consumers, promoting innovation, competition, and consumer choice. But standard setting by its nature also creates the risk of harm to the competitive process and to consumers. Because standard setting often displaces the normal competitive process with the collective decision-making of competitors, preserving the integrity of the standard-setting process is central to ensuring that standard setting works to the benefit of, rather than against, consumers.

Although the proposed Google order differs from the Bosch order, I respectfully disagree with those who believe that the relief is weak or unduly complicated. Consent orders remedy violations arising out of specific factual situations, reflecting the Commission's assessment of the market and the conduct involved, and each is by nature different. The Google order is not yet final, and is still under consideration by the Commission. However, in January, I voted to issue the proposed order because I believed it remedied Google's alleged anticompetitive conduct resulting from breaches by Google and its subsidiary Motorola of Motorola's commitments to license its standard essential patents (SEPs) on FRAND terms.

b. Please explain your view of the *Bosch* decision.

As alleged in the Complaint, before its acquisition by Robert Bosch GmbH ("Bosch"), SPX Services ("SPX") reneged on a licensing commitment made to two standard-setting bodies to license its SEPs on FRAND terms, by seeking injunctions against willing licensees of those SEPs. Together with a majority of the Commission, I had reason to believe that this conduct tended to impair competition in the market for automobile air conditioning servicing devices.

i. Are you concerned about using a merger review process to require relief on unrelated conduct as a condition for clearing the deal?

I would be concerned about using the FTC's merger review process to require relief that was not reasonably related to an underlying violation of law, but that was not the case in the Commission's agreement with *Bosch*. If a party decides to settle an adjudicative challenge, then the FTC will consider various settlement options, including the potential to settle merger and conduct challenges concurrently.

14. **In the debate over standard essential patents and FRAND commitments, much discussion has focused on the willingness of potential licensees to engage in negotiations.**

    a. **In your view, what does it mean to be a willing licensee?**

    In this context, a willing licensee is a potential licensee who is engaged in good-faith negotiation to obtain a FRAND license to a standard essential patent and is capable of complying with the terms of a license.

    b. **Is a licensee unwilling simply because it refuses to accept a stated demand as FRAND or demands that the party demonstrate that its portfolio is composed of valid and infringed patents that have some value apart from its inclusion in the standard?**

    A potential licensee is not unwilling simply because it refuses to accept a stated demand as FRAND. When negotiating FRAND royalties, both the potential licensor and the potential licensee have a duty to negotiate in good faith.

    c. **There has been comparatively little focus on the willingness of SEP holders to engage in good faith negotiations—that is, whether the SEP holder is a willing licensor. Would you agree that there is a burden on the SEP holder to demonstrate the value of its SEP portfolio, a burden that is generally not discharged by merely quoting a rate, particularly when the rate clearly exceeds traditional industry benchmarks?**

    In my view, the potential licensor of a FRAND-encumbered SEP does not discharge its duty to negotiate in good faith by merely quoting a rate.

15. **The Commission statement accompanying its decision relating to Google's abuse of certain standard essential patents indicated that "Google's settlement with the Commission requires Google to withdraw its claims for injunctive relief on FRAND encumbered patents around the world."**

    a. **How many of those claims for injunctive relief have been withdrawn and how many are still open?**

b. What is the Commission doing to ensure compliance with its Order?

Under the terms of the order, Google cannot seek any new injunctions on FRAND-encumbered standard essential patents unless and until it follows the processes set out in the order. In addition, the order prohibits Google from obtaining or enforcing any injunctions in current actions without first following the processes set out in the order. Since the proposed order was accepted for public comment, Google has not obtained or enforced any injunctions on standard essential patents and many of those actions have been resolved. To our knowledge, Google is currently complying with the terms of the order, even though at this point the order is not final. When the order becomes final, the Commission will monitor and enforce the order as it does any other order.

16. In testimony before our Committee last July, you expressed concerns about anticompetitive abuse of standard essential patents and stated that the Commission "believes that the ITC has the authority under its public interest obligations . . . to deny an exclusion order if the holder of the FRAND-encumbered SEP has not complied with its FRAND obligation." You also suggested that if the ITC did not act appropriately, Congress should consider giving the ITC more flexibility to deny exclusion orders in such cases.

a. In your view, has the ITC responded to the concerns you raised?

Yes. The ITC issued Notices of Review in several investigations involving FRAND-encumbered SEPs in which it sought briefing from the public and the parties on a wide range of FRAND topics. For example, in an investigation involving Apple products, it asked the parties whether: (1) "the mere existence of a [F]RAND obligation preclude[s] issuance of an exclusion order[;]" (2) a patent owner that has refused to offer or negotiate a license on [F]RAND terms should be able to obtain an exclusion order; and (3) a patent owner should be able to obtain an exclusion order if it has offered a [F]RAND license, and that license has been rejected by the alleged infringer.[7] The ITC's actions demonstrate that it is taking seriously competitive concerns about exclusion orders for FRAND-encumbered SEPs.

b. Do you worry about ITC decisions in cases involving FRAND-encumbered SEPs, given that the only available ITC remedy is an exclusion order?

Yes. I am concerned that a patentee might voluntarily commit to license its intellectual property on FRAND terms as part of the standard-setting process, and then escape that licensing obligation by seeking an exclusion order for

[7] *In re Certain Wireless Communication Devices*, Inv. No. 337-TA-745, Notice of Commission Decision to Review in Part a Final Initial Determination Finding a Violation of Section 337 at 4-5 (June 2012).

infringement of the FRAND-encumbered SEP. The threat of the exclusion order undercuts the pro-competitive goals of the FRAND commitment. A potential licensee is likely to accept an unreasonable royalty demand if the alternative is an order that blocks its products from the market. Even a relatively small risk of that disruptive outcome can force an implementer to accept licensing terms that far exceed what it would have paid to license the patent before the standard was adopted. More broadly, unexpectedly high costs undermine the competitive value of the standard-setting process. And the uncertainty associated with the threat of an injunction can discourage firms from investing to implement the standard.

c. Do you believe that enforcement action based on anticompetitive abuse of FRAND-encumbered SEPs could and should be pursued under Section 2 of the Sherman Act?

The FTC does not have direct authority to enforce the provisions of Section 2 of the Sherman Act. Section 5 of the FTC Act, however, is understood to incorporate conduct that violates Section 2, and it can reach more broadly. Enforcement actions based on anticompetitive abuses of FRAND-encumbered SEPs are highly fact-specific and the FTC will use all of its enforcement tools to address these abuses, where appropriate.

17. At our Subcommittee's hearing last week, there was much discussion of legislation that would impose a presumption that all patent settlements between innovator pharmaceutical companies and generic companies are anticompetitive. By statute, the Commission is already entitled to receive notice of such settlements, so it has ample opportunity to review such settlements for any anticompetitive problems. Both federal statute and Supreme Court case law state that patents are presumed to be valid. 35 U.S.C. § 282; *Microsoft Corp. v. i4i Limited Partnership*, 131 S.Ct. 2238 (2011). Indeed, patent invalidity must be proved by the elevated standard of clear and convincing evidence. *Microsoft*, 131 S.Ct. at 2252. In addition, it is well-settled law that settlements of litigation are highly favored. Yet, your position on patent settlements legislation seems to contradict quite squarely these two well-settled, time-tested principles.

a. How can you reconcile your position with these principles, particularly when the settlement occurs within the term of the patent?

b. Do you really believe that all such settlements are necessarily anticompetitive?

c. Under what conditions might such a settlement be procompetitive in its effect?

I do not understand the bill introduced by Senators Klobuchar and Grassley to impose the broad presumption you describe. Instead, the proposed legislation

addresses what are known as "pay-for-delay" agreements, in which the brand-name-drug firm pays its would-be generic rival and the generic drug firm agrees to abandon its Hatch-Waxman patent challenge and forgo entry for a period of time, often several years. The vast majority of brand-generic settlements do not involve compensation to the generic patent challenger.[8] Thus, most Hatch-Waxman patent settlements would not be affected by the bill.

I do not believe that all patent settlements between brand-name drug manufacturers and generic drug companies should be treated as presumptively anticompetitive or that all such settlements are necessarily anticompetitive. I do believe, however, that treating pay-for-delay agreements as presumptively anticompetitive is sound antitrust policy. As the Commission's brief to the Supreme Court in *FTC v. Actavis* explains, a settlement in which the brand-name drug firm pays the generic patent challenger and the generic agrees to refrain from competing inherently aligns the generic firm's interest with the brand's interest in extending its monopoly. This aligning of the parties' incentives means the generic will accept a later entry date than it otherwise would accept based on its expectations about the likely outcome of the patent suit. As a result, the parties share a pool of profits that is made larger by their agreement not to compete. Such treaties between competitors, actual or potential, are at the core of what the antitrust laws proscribe. In contrast, the other ways that drug companies settle patent suits, such as with royalty payments by the allegedly infringing generic or waivers of accrued damage claims, do not have this inherent tendency to harm competition and consumers.

A legal rule that recognizes the inherent risk of harm from pay-for-delay agreements does not conflict with the statutory presumption of validity. The Supreme Court has never suggested that the presumption of validity gives the patent holder the right to share monopoly profits to induce potential competitors to abandon their efforts to compete. Moreover, the rationale for treating pay-for-delay settlements as presumptively anticompetitive does not rest on any assumption that the patent at issue is necessarily invalid or not infringed. Rather, such agreements are problematic because it is the payment, not the strength of the patent, which thwarts the competitive process that would otherwise operate to protect consumers.

The public policy favoring settlements is important, but it does not trump the important public values embodied in the antitrust laws. Were the law otherwise, private parties could use settlements to shield a wide range of anticompetitive activity. No one, however, suggests that parties who chose to settle their litigation by means of a price fixing agreement could avoid liability on the ground that public policy favors settlement. Moreover, arguments that limiting the use of payments will make it impossible to settle Hatch-Waxman patent cases are not

[8] *2012 Annual Report* at 2 (noting that more than 70% of brand-generic settlements are resolved without compensation to the generic).

borne out by the evidence noted above, which shows the vast majority of such settlements do not involve payment to the generic.

Under a legal rule that treats pay-for-delay settlements as presumptively anticompetitive, defendants may seek to rebut the presumption. The Commission's brief to the Supreme Court describes some general ways that parties might do so: showing that the compensation to the generic firm was for something other than delay; showing that the payment merely reflected litigation costs avoided by the settlement; or identifying some unusual business circumstance such that the payment creates an offsetting competitive benefit. As the brief notes, however, lower courts have had little opportunity to date to consider possible countervailing procompetitive justifications and evidence supporting any such rebuttals is likely to be in the possession of the defendants. Consequently, the specific conditions under which a presumptively anticompetitive settlement might be deemed on balance procompetitive would be a subject for further development in the courts.

18. The Commission's estimated cost savings associated with legislation providing the FTC with additional authorities to prevent parties from settling Hatch-Waxman patent litigation appears to differ from both Office of Management and Budget (OMB) numbers in the President's FY 2014 proposal and previous Congressional Budget Office (CBO) cost savings figures. In fact, there appear to be three entirely different estimates of what, if any, savings there may be.

a. In light of these discrepancies, what effort has the Commission taken to coordinate information sharing of studies, proposals, or assumptions with OMB and CBO to determine the accuracy and validity of estimated cost savings?

FTC staff have had numerous discussions with OMB and CBO about various estimates of the financial impact of pay-for-delay settlements (as noted in response to Question 17, the proposed legislation would not prevent parties from settling Hatch-Waxman patent litigation without compensation). While we cannot be certain of the exact methodology underlying the CBO and OMB estimates, it appears that the discrepancies are largely due to differing objectives. The FTC staff focused on predicting the harm to consumers from existing and anticipated future anticompetitive settlements that delay the entry of lower cost generic drugs.

CBO has produced estimates of the likely budgetary impact of several pieces of legislation related to these settlements. These estimates were prospective, generally predicting the amount of future harm that a law prohibiting pay-for-delay settlements could prevent. The FTC's studies have been retrospective, assessing the current and ongoing costs of settlements that already have been reached. A second difference is that CBO's primary goal was to estimate the

impact of proposed legislation on government expenditures, whereas the FTC's estimate was of the cost to all drug purchasers, private and public.

Like CBO, OMB also estimated the impact on government spending from future pay-for-delay settlements that would be prevented by legislation. But unlike CBO, this estimate included spending both on small molecule (or chemical) and large molecule (or biologic) drugs. Due to data limitations, the FTC's analysis was limited to small molecule drugs.

Consistent with the FTC's analysis, however, both CBO and OMB concluded that these agreements delay competition and significantly harm consumers.

b. What information related to patent settlements has the Commission received from either CBO or OMB?

We have had informal discussions with both CBO and OMB about techniques to estimate the impact of these settlements, but have not received any specific information from them related to patent settlements.

c. Has the Commission received any data or information from other public or private organization on patent settlements upon which it has relied in making assumptions about savings from patent settlements? If so, which entities?

The FTC staff's analysis relied on information from a variety of sources. The most important data came from our review of the settlements themselves, which companies are required to file with the FTC and the Antitrust Division under a provision of the MMA. The settlement data was supplemented with information from the FDA about Paragraph IV challenges by potential generic competitors, and information on the patents covered by the settlements, which is publicly available. The FTC also licensed commercially available sales data from IMS Health on the timing and market consequences of generic entry, as well as the level of expenditures impacted by the settlements.[9]

19. Many in the IP community are concerned by the growing number of instances in which established operating companies transfer their patents to patent assertion entities (PAEs), so that these entities can target the established company's competitors. Some reports suggest that the operating companies often retain a revenue interest in the assertion of the transferred patents, which have included patents that are subject to commitments to license on FRAND terms. Last week, the Commission's directors of both economics and competition said that they support the issuance of a Section 6(b) order to investigate the PAE industry.

[9] *See, e.g.*, C. Scott Hemphill & Bhaven Sampat, *Drug Patents in the Supreme Court*, 339 SCIENCE 1386 (2013) (reporting results of study of the adverse consequences of pay-for-delay settlements).

a. Would you support such an order? If not, why not?

The Commission's Section 6(b) authority is an investigative tool that allows the FTC to conduct studies to support our enforcement and policy missions. The increased litigation activity of PAEs raises a number of difficult questions and a well-designed 6(b) study may be a useful mechanism to explore the harms and efficiencies of PAE activity.

This is an important issue and one that I will be considering and discussing with my fellow Commissioners.

20. Both China and India have draft guidelines or policies that would make it an abuse of intellectual property rights for a dominant company unconditionally and unilaterally to refuse to license its critical intellectual property rights to a competitor who needs access to those rights to compete and innovate. These initiatives are clearly inconsistent with the DOJ's and FTC's Antitrust Guidelines for the Licensing of Intellectual Property, as well as U.S. case law, and could significantly harm innovative American companies operating overseas by undermining their intellectual property.

a. What is the Commission doing about these broad intellectual property abuse policies that are emerging in key foreign jurisdictions?

b. Because unconditional refusals to license strike at the heart of intellectual property rights, are you also working with USTR and the PTO to develop a holistic approach for influencing activities overseas?

c. Are you concerned that open-ended tests for abuse may allow foreign governments to use antitrust policy as a backdoor means for usurping the intellectual property rights of U.S. companies?

The Commission regularly engages with our counterpart agencies in both India (the Competition Commission of India) and China (MOFCOM, NDRC, and SAIC) on antitrust policy and implementation matters, including with regard to intellectual property-related antitrust issues. In our dialogues with the Chinese and Indian agencies, we have regularly emphasized the importance of intellectual property rights to innovation, competition, and consumer welfare, and encouraged them to avoid applying antitrust law as a tool to constrain the legitimate exercise of intellectual property rights.

Intellectual property laws and antitrust laws can work together to promote innovation. We have been advancing this message through a number of mechanisms. The FTC, along with the Department of Justice Antitrust Division, entered into a Memorandum of Understanding with the three Chinese antitrust agencies in 2011 and with India's agency (as well as its parent Ministry) in 2012.

These MOUs confirm our joint commitment to an ongoing dialogue on antitrust matters as well as other cooperative activities related to antitrust enforcement and competition policy, such as the provision of technical assistance. We expect that the MOUs will provide for increased opportunities for engagement on issues involving intellectual property and antitrust.

We, along with the Antitrust Division, have conducted numerous technical assistance workshops in both China and India on antitrust matters, including workshops for China's agencies in 2010 and 2012 on how the United States antitrust agencies apply U.S. antitrust law to conduct involving intellectual property. In addition, we have commented on draft competition laws and regulations in both countries, including those relating to the application of antitrust law to intellectual property.

The FTC also participates regularly in U.S. government inter-agency dialogues involving the USTR and the PTO, as well as the Department of Commerce, the State Department, and others, providing our input and experience regarding competition and intellectual property issues and helping to build a coordinated U.S. government position on intellectual property and antitrust issues in other countries.

21. **Some have expressed concern about consumer harm in the prescription eyeglass and contact lens industry. Requiring consumers to obtain a prescription prior to purchasing a product impedes free market forces. Circumstances in which the prescriber is also the retailer of the prescribed product presents a conflict of interest that may lead to anticompetitive behavior. This is especially true when the product is prescribed by brand, locking a consumer into purchasing the brand selected by the prescriber. The Commission has historically taken steps to promote consumer choice in such markets, such as by promulgating the Eye Glass Rule in the late 1970s and the Contact Lens Rule, which implemented the Fairness to Contact Lens Consumers Act, nearly a decade ago. Both of these rules guarantee that upon completion of an eye exam, a consumer has the automatic right to receive copies of his prescriptions without having to make a request, pay a fee, or sign a waiver. These rules provide consumers with the opportunity to exercise that choice when buying contact lenses or eyeglasses.**

    a. **Despite the requirement that patients receive eyeglass prescriptions including all "written specifications. . . necessary to obtain lenses for eyeglasses,"[10] pupillary distance (P/D) measurement is instead typically taken at the store where the eyeglasses are purchased. Now that eyeglasses are available online, it is important that P/D is included in prescriptions given consumers—as required by law—allowing them freedom to purchase eyeglasses where they want, whether at a brick-and-mortar store or online. To help ensure that consumers have this choice, will the Commission issue**

[10] 16 CFR 456.1(g).

guidance reminding prescribers of their legal obligation to include on prescriptions all parameters necessary to produce lenses, including the P/D?

I agree that prescription portability gives consumers the ability to comparison shop for optical goods, thereby promoting competition and helping to make markets more responsive to consumer needs and preferences. We remain committed to protecting optical goods consumers by enforcing the Eyeglass Rule, the Fairness to Contact Lens Consumers Act (FCLCA), the Contact Lens Rule, and the FTC Act.

We continue to monitor compliance with these laws and regulations, and to educate businesses and consumers about prescriber obligations and consumer rights, including the requirement that prescriptions include all of the information and parameters necessary to obtain the right lenses. While a substantial amount of guidance already exists regarding the optical goods rules, we will consider the need for additional guidance, especially as the optical goods marketplace evolves and online sales continue to grow.

22. **Under your predecessor, the Commission showed leadership in supporting the development of transparency and procedural fairness norms internationally. That work has been done in the OECD and is now being conducted in the ICN. It has also been incorporated into the Trans-Pacific Partnership and there will be an opportunity to do so in the US-EU Transatlantic Trade and Investment Partnership.**

a. **What do you think about the need for increased transparency and due process in antitrust proceedings globally?**

b. **Do you plan to continue to work in a similar vein as your predecessors in bringing these issues to forefront of the international antitrust policy debate?**

Transparency and due process are essential elements of antitrust agencies' investigative processes. There is increasing recognition at the international level that fair, predictable, and transparent processes facilitate effective agency enforcement. Recognizing the concerns regarding the levels of transparency and due process internationally, promoting the discussion of these issues among antitrust agencies is a priority for the FTC. We will continue to play a key role in supporting and advancing opportunities for such dialogue in our bilateral and multilateral work.

In 2010 and 2011, the OECD's Competition Committee held three roundtable discussions on transparency and procedural fairness. The FTC, together with the Antitrust Division, made written submissions and contributed to the discussions. The OECD summary of the key points from the discussions highlighted examples

of steps that many countries have taken to improve transparency and procedural fairness.

In 2012, the International Competition Network initiated a multi-year project on competition agencies' investigative processes. The FTC, along with the Directorate General for Competition of the European Commission, co-chairs the project, which involves agencies from over 40 jurisdictions along with leading representatives of the business community. The investigative process project addresses: the investigative tools that agencies use to obtain evidence; transparency and predictability; the ability of parties to present evidence and views during an investigation; agencies' internal checks and balances; the role of third parties; and confidentiality and legal privileges. Through this project, ICN member agencies and non-governmental advisors share experiences regarding agency powers and investigational procedures, with an eye towards developing guidance or recommendations. In 2013, the project delivered reports on investigative tools and transparency practices, highlighting common principles and effective practices across many jurisdictions. The FTC led a panel discussion of agency transparency practices at the recent ICN annual conference.

The FTC believes that transparent, predictable, and fair processes are not only beneficial to parties but also lead to better enforcement, informed by substantive input from parties. We will continue to promote the values of fairness, open dialogue with parties, and sound decision-making with our international counterparts and to keep these issues at the forefront of the international antitrust policy agenda.

23. Competition policy advocacy has traditionally been an important part of the Commission's role. As part of this function, the Commission recently sent comments to the Colorado PUC to discourage potential taxi regulations that would have had a negative impact on apps like Uber. You recently said that you hope to make the Commission's "research function" a priority during your term as Chair.

a. Will you commit to devote the Commission's research and advocacy functions to support the development of new entrants to markets that bring competition to consumers and generally lower prices?

Pursuant to our authority under Sections 6(a) and (f) of the FTC Act, the Commission regularly gathers and compiles information concerning certain business activity in order to better promote competition. One of the Commission's primary activities in this area is competition advocacy. This advocacy takes the form of submitting filings in support of competition principles to state legislatures, regulatory boards, and officials; state and federal courts; other federal agencies; and professional organizations. The Commission also organizes public workshops and issues reports on current competition topics.

This kind of research and advocacy is a critical component of the Commission's competition mission, and one that I support.

Office of the Secretary

Correspondence Referral

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Today's Date: 05/01/13

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Date Forwarded:
05/01/13

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Subject of Correspondence:

QFRs from hearing entitled "Oversight of the Enforcement of Antitrust Laws"

Author:
Senator Patrick Leahy

Representing:

Copies of Response To:

Deadline:
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Copies of Correspondence To:

Office of the Chairman
Office of Congressional Relations - (0309)
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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 30, 2013

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
Washington, DC

Dear Ms. Edith Ramirez:

Thank you for your testimony at the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights, hearing entitled "Oversight of the Enforcement of the Antitrust Laws" on April 16, 2013. Attached are written questions from Committee members. We look forward to including your answers to these questions, along with your hearing testimony, in the formal Committee record.

Please help us complete a timely and accurate hearing record by sending an electronic version of your responses to Melanie Kartzmer, Hearing Clerk, Senate Judiciary Committee, at Melanie_Kartzmer@judiciary-dem.senate.gov, no later than **May 14, 2013.**

Where circumstances make it impossible to comply with the two-week period provided for submission of answers, witnesses may explain in writing and request an extension of time to reply.

Again, thank you for your participation. If you have any questions, please contact Melanie at (202) 224-7703.

Sincerely,

Patrick Leahy

PATRICK LEAHY
Chairman

Questions for the Record Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Hearing before the Senate Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights
on "Oversight of the Enforcement of the Antitrust Laws"
April 16, 2013

Questions for Chairwoman Ramirez

1) In 2012, the Government Accountability Office (GAO) issued a report concerning Federal oversight and self-regulation of Group Purchasing Organizations (GPOs). This area has long been of interest to the Judiciary Committee. After I raised concerns about the potential impact on patient costs of GPO contracting practices with the Justice Department in 2000, and the Department of Health and Human Services in 2001, the Antitrust Subcommittee held a series of hearings on GPO practices that culminated in a joint report by the Department of Justice and Federal Trade Commission in 2004. During the hearings, many expressed concern that fees paid by vendors to GPOs distort demand, resulting in higher prices for hospitals and consumers.

Although the Department of Justice and FTC have investigated complaints against various GPOs, since 2004 the Department has filed only one lawsuit against a GPO under the antitrust laws, and the FTC has filed none. The GAO's 2012 report observed: "While the oversight of GPOs is conducted through the exercise of investigatory authorities of HHS, DOJ, and FTC... this oversight does not address other key questions that have previously been raised about GPOs' activities. For example, inasmuch as the collection of contract administrative fees is permitted under the safe harbor provision to the Anti-Kickback statute and safe harbor regulation, this oversight cannot address whether or to what extent these fees create a financial incentive that is inconsistent with GPOs obtaining the lowest prices for their customers."

Do you believe that the current legislative framework is sufficient to address the risk of undesirable conduct by GPOs that increases prices for consumers? Do you agree that the legal framework could be strengthened through other measures, such as revisiting the safe harbor for GPOs provided in the Anti-Kickback Statute?

2) Last year, I asked then-Commissioner Ramirez and the Acting Assistant Attorney General for Antitrust, Joseph Wayland, whether "patent trolling" behavior by certain patent-assertion entities could constitute an antitrust violation. Mr. Wayland responded: "Any effort by a patent owner to harm competition by improperly extending the exclusionary scope of its patent . . . may violate the antitrust laws, and allegations of such actions merit investigation." I was pleased that your agencies recently held a joint workshop to further investigate this question. How do your agencies intend to follow up on the workshop?

3) In your testimony, you stated that the FTC has heard reports of patent assertion entities making unsubstantiated claims relative to small businesses. Unfortunately, I continue to hear frequently about this problem from small businesses in Vermont and across the country. What steps can the FTC take to address this conduct through its consumer protection authority? Will

you agree to monitor such activity and take appropriate action to address abusive behavior by patent trolls?

4) Earlier this year, the FTC concluded its investigation of Google's search engine practices. A majority of Commissioners found that certain practices used by Google threatened competition and innovation, yet the FTC relied on voluntary commitments from Google to end those practices, instead of a consent order.

a. In your testimony, you expressed concern about the use of voluntary commitments to address anticompetitive violations. Can you please elaborate on that? What actions does the FTC intend to take to enforce Google's commitments?

b. In discussing potential remedies, some commentators noted the challenges involved in overseeing a technologically complex business practice that is constantly being updated, such as a search engine algorithm. How is the Commission responding to the challenges of enforcement in an online world?

c. In your testimony, you said that the FTC concluded that certain changes made by Google to its search engine algorithm were "pro-competitive" because they were "designed to improve the overall search experience for the user," even though they had the effect of negatively impacting rivals. Would your analysis have come out differently if the FTC had focused on the harm experienced by Google's other "users"; namely, the advertisers who pay to post ads on its site? How did the FTC determine its framework of analysis in assessing the procompetitive justifications of Google's conduct?

d. In light of the recent reports of action by your European counterpart authorities, is the FTC taking any further action in these matters?

Senator Klobuchar's Questions for the Record —
Subcommittee on Antitrust, Competition Policy and Consumer Rights
"Oversight of the Enforcement of the Antitrust Laws"

For Chairwoman Ramirez:

1. In these tough budget times, we're asking every agency to do more with less. Can you explain to us the value that you think antitrust enforcement brings to consumers and the economy as a whole?

2. The Antitrust Division and the Federal Trade Commission share responsibility for government enforcement of the federal antitrust laws. Sometimes this leads to conflicts regarding which agency will review a merger, what is known as the "clearance process." In some cases, the agencies take a long time, sometimes nearly the entire length of the thirty day pre-merger waiting period, to decide which one will investigate a merger. This unnecessarily delays resolution of the merger investigation, and imposes unnecessary burdens on the merging parties.

    - What is your agency doing to resolve clearance disputes in a more effective way? Are you working with the Antitrust Division/FTC, as the Antitrust Modernization Commission suggested in 2007, to develop a new merger clearance agreement?

3. Recently, standard essential patents have been the subject of several cases filed at the International Trade Commission (ITC). We can all agree that standardization of technology and standard essential patents have been critical to the development of a competitive market for smartphones and tablets. But recently, concerns have been raised about the practice of bringing standard essential patents cases to the ITC seeking an exclusion order to prevent products with the patents from being imported into the U.S. Some worry that the ITC exclusion orders related to standard essential patents could gravely harm competition.

    - What sorts of negative effects might the use of exclusion orders regarding standard essential patents have on competition and consumer welfare in general?

    - Is there any justification for the use of exclusion orders in the context of standard essential patents?

Written Questions of Senator Chuck Grassley for Judiciary Antitrust Subcommittee Hearing "Oversight of the Enforcement of the Antitrust Laws", April 16, 2013

Questions for Federal Trade Commission Chairwoman Ramirez

1. As you know, I've been concerned about settlement agreements between brand name and generic drug manufacturers that result in a payment to the generic manufacturer and a delay in market entry of the generic drug. These "pay for delay" or "reverse payment" agreements result in consumers having to pay higher costs for their drugs. Senator Kolbuchar and I have introduced a bill, the Preserve Access to Affordable Generics Act, that would help put a stop to these anti-competitive agreements and ensure that lower priced generic drugs enter the market as soon as possible. Former Chairman Jon Leibowitz was very supportive of our efforts to address this anti-competitive practice.

    a. Do you agree that these "pay for delay" agreements harm consumers?

    b. Do you agree that these kinds of agreements still a problem?

    c. What is the FTC doing to prevent these kinds of agreements?

    d. Do you believe that the Klobuchar/Grassley legislation would help preserve generic drug competition and ensure that more affordable drugs get to consumers as expeditiously as possible?

"Oversight of the Enforcement of the Antitrust Laws"
Senate Antitrust Subcommittee Hearing
April 16, 2013

Written Questions
Senator Michael S. Lee

Questions for Chairwoman Ramirez

1. In 2008, the Department of Justice released a report on Section 2 of the Sherman Act. The report was later withdrawn. That report provided the business community with guidance on applicable principles in Section 2 enforcement actions.

    a. Do you agree with the 2008 report's findings and conclusions?

    b. If not, with which specific findings and conclusions do you disagree?

    c. Do you agree that it would be helpful for the business community to have formal guidance on the enforcement agencies' approach to Section 2 enforcement?

    d. Will you commit to work with Mr. Baer to develop and publish formal guidance on Section 2 enforcement?

2. The Federal Trade Commission, particularly under the previous Chairman, has been in the practice of reaching settlements in cases brought under Section 5 of the FTC Act. These settlements are not subsequently reviewed by a court to establish a clear record of Section 5 enforcement boundaries. At the same time, the Commission has yet to provide definitive guidance as to how Section 5 can be used to enforce unfair methods of competition beyond the traditional scope of antitrust laws.

    a. Do you plan to continue the practice of enforcing Section 5 by means of settlements outside of court review?

    b. How do you think a practice of open-ended enforcement might be perceived in foreign jurisdictions where basic rule of law principles are often lacking?

    c. What formal guidance will you provide the business community regarding Section 5 enforcement?

3. At our Subcommittee's hearing last week, in response to a question regarding Section 5 of the FTC Act, you stated that you believe the Commission "has been using its Section 5 authority very rigorously and very judiciously," and that the agency is providing some measure of guidance through the pattern of its decisions.

    a. If the Commission is applying Section 5 "cautiously" and wishes to provide useful enforcement guidance, why are you resistant to provide such guidance in a more comprehensive, published form upon which the business community and others can meaningfully rely?

4. Some have expressed concern that the Commission's approach to Section 5 enforcement has left many in the business community confused and uncertain as the contours of that provision and the breadth of possible enforcement actions.

    a. Do you believe that the Commission may use Section 5 to create convergence with U.S. antitrust doctrine and that of international jurisdictions?

    b. Do you believe the Commission may use Section 5 to place additional emphasis within U.S. competition policy on consumer choice as a touchstone of antitrust law?

    c. Do you believe the Commission may use Section 5 to bring actions that increasingly incorporate analysis and assumptions based on behavioral economics?

5. At our Subcommittee's hearing last week, you stated that you believe the standards used by the FTC and the DOJ for obtaining a preliminary injunction are "quite similar" and that "as a practical matter what each agency needs to do is go before a judge and show and provide evidence that backs up the charges that are being made." You further stated that you "believe it would be difficult to point to a specific situation where…a case would have led to a different outcome had it been handled by a different agency."

    a. In its 2007 Report and Recommendations, the Antitrust Modernization Commission wrote that the "FTC's ability to continue a merger case in administrative litigation also may lead companies whose transactions are investigated by the FTC to feel greater pressure to settle a matter than if they had been investigated by the DOJ."

        i. Should companies face greater pressure to settle if their mergers are reviewed by the FTC rather than the DOJ?

        ii. Do you agree that even the perception of a more lenient standard for FTC cases than those brought by the DOJ could result in a practical difference for litigants who must weigh litigation risk?

    b. The 2007 Report further states that differences in the preliminary injunction standards faced by the FTC and the DOJ, whether real or perceived, "can undermine the public's confidence that the antitrust agencies are reviewing mergers efficiently and fairly and that it does not matter which agency reviews a given merger."

        i. Do you agree that public confidence is important and can be affected by – public perception of differing standards applied to identical issues?

        ii. Do you agree that it would be problematic if the identity of the reviewing agency led to different outcomes due to the parties' perception that the FTC and the DOJ face different standards for obtaining a preliminary injunction?

        iii. What measures do you believe appropriate to remedy any perceived or real inconsistency in the preliminary injunction standards faced by the agencies?

    c. In *FTC v. CCC Holdings*, the district court granted the FTC's request for a

preliminary injunction. The judge noted that although the defendants' arguments might "ultimately win the day," under Section 13(b) the trial court needed only to determine that "the FTC had raised questions that are so 'serious, substantial, difficult and doubtful' that they are 'fair ground for thorough investigation, study, deliberation and determination by the FTC'" to conclude that a preliminary injunction should issue. Commentators have written that "[t]he importance of the CCC Holdings decision therefore is not merely academic, and the resulting agency divergence is not merely procedural. It may be outcome determinative in some cases."[1]

i. Do you believe the standard applied by the district court in *FTC v. CCC Holdings* was the same as the preliminary injunction standard applicable to the DOJ in a merger case?

ii. Do you agree that application of that lower standard may have had an impact on the outcome of the case, in the sense that the outcome may have been different if the DOJ standard had been applied?

d. In the *Whole Foods* litigation, the FTC argued on appeal before the D.C. Circuit: "This Court has recognized, in keeping with the intent of Congress in creating the Commission and in enacting Section 13(b), that the Commission is not required to 'prove' any aspect of its case in order to secure a preliminary injunction in aid of its own adjudicative and remedial powers; rather, it need only show 'serious, substantial' questions requiring plenary administrative consideration. The district court's contrary approach ignores the statutory scheme, and effectively usurps the adjudicative role of the Commission."[2]

i. Do you contend the standard the Commission advanced in the *Whole Foods* appeal was the same standard DOJ has to meet in order to obtain a preliminary injunction in a merger case?

e. *FTC v. Libbey, Inc.*, 211 F. Supp.2d 34 (D.D.C. 2002), is another case in which a court applied a lower preliminary injunction standard to an FTC merger challenge than would have been applied if DOJ had brought the case.

i. Do you agree that the standard applied in that instance may have had an impact on the outcome of the case?

f. In February 2013, the Section of Antitrust Law of the American Bar Association issued a report entitled *Presidential Transition Report: The State of Antitrust Enforcement 2012*. The report commented that some circuits have relaxed the standard imposed on the FTC from the standard applicable to the DOJ. The Section noted that the standards applied in cases brought by the FTC differ from those in DOJ cases in other ways as well. The Section urged the FTC to adopt procedures "that will ensure that in merger cases it will seek injunctions only under the same equitable

[1] Peter Love and Ryan C. Thomas, *FTC v. CCC Holdings: Message Received*, GCP (April 2009) at 10.
[2] http://www.ftc.gov/os/caselist/0710114/080114ftcwholefoodsproofbrief.pdf at 27.

standard for a preliminary injunction as that applied to Division injunction cases." Absent such procedures, the report urged the Administration "to seek legislative changes to Section 13(b) of the Federal Trade Commission Act that will make it consistent with traditional equitable standards for injunctive relief."

i. Will you commit to adopt procedures to ensure that the Commission only seeks preliminary injunctions under the same equitable standards that apply to DOJ actions?

ii. Would you support legislation to clarify that the FTC and the DOJ must satisfy identical standards to obtain a preliminary injunction?

iii. If you remain convinced that the differing standards applied to FTC and DOJ actions are "quite similar" and as a practical matter lead to little if any difference in outcome, what would be the harm in clarifying that the applicable standard is in fact the same or in establishing a unified standard?

6. At our Subcommittee's hearing last week, you expressed concern that an acceptance by the Commission of voluntary commitments, as opposed to a consent order, would create confusion over its settlement practices. You suggested that the Commission's acceptance of voluntary commitments by Google should not be considered precedent. Yet, other companies under investigation may believe they need not enter into binding consent decrees, instead asking to be treated by the Commission in the same manner as Google. In addition to an appearance of favoritism the Google agreement may create, I am concerned about informal and illegitimate regulatory creep when the Commission seeks to secure voluntary commitments from private companies. If a majority of commissioners finds a violation there should be a formal consent order. If a majority does not find a violation, the Commission has no authority to interfere in the market and should not pursue any enforcement action, whether voluntary or not.

   a. Now that the Commission has in fact negotiated and accepted a voluntary commitment in lieu of consent order, what specifically do you plan to do to correct perceptions and assumptions about future enforcement actions?

   b. If the Commission does not plan to follow the standard of settlement practices used in this case ever again, how will you respond to assertions that Google received special treatment from the Commission?

7. At our Subcommittee's hearing last week, you seemed to agree with me that voluntary commitments are an illegitimate approach for the Commission to use in seeking to resolve antitrust violations.

   a. Under your leadership, will the Commission move to correct this misstep and seek to embody Google's voluntary commitments in a formal consent order?

8. At our Subcommittee's hearing last week, you stated that if Google does not uphold and complete its voluntary commitments from the settlement, the Commission will take "appropriate action."

a. Given that there is no Commission precedent for dealing with this type of voluntary commitment, what specifically would that appropriate action entail?

b. Would such action require the Commission to undergo another complex and lengthy investigative proceeding, which could allow harmful business practices to continue undeterred until there is a formal settlement?

9. The Commission's closing statement in the Google matter concluded: "Challenging Google's product design decisions in this case would require the Commission – or court – to second-guess a firm's product design decisions where plausible procompetitive justifications have been offered, and where those justifications are supported by ample evidence." Similarly, Chairman Leibowitz's opening remarks stated: "Google's primary reason for changing the look and feel of its search results to highlight its own products was to improve the user experience."

   a. This approach appears to differ from the standard set forth in the Microsoft case and the standard that you said the Commission used to evaluate Google's conduct. Under the Microsoft decision, the Commission, or a court, must examine whether "the anticompetitive effect of the challenged action outweighs [any proffered justification for the product design change]." United States v. Microsoft Corp, 253 F.3d 34, 67 (D.C. Cir. 2001). It would have required the Commission to apply a balancing test rather than concluding its analysis simply upon a finding that Google put forth a plausible business justification, as suggested by the Commission's closing statement and Chairman Leibowitz's remarks. Please explain this apparent inconsistency.

   b. What standard will the Commission apply in the future to similar circumstances?

10. Several states have ongoing investigations of Google's conduct.

    a. Did the Commission coordinate its legal and factual analysis with these states?

    b. Did the Commission attempt to work with these states to obtain a coordinated settlement?

11. Google's practice of negotiating exclusionary syndication and distribution agreements was not addressed in the Commission's decision.

    a. Did the Commission review this conduct?

    b. If so, why was it not included in the Commission's final decision?

12. The Commission and the Department of Justice share enforcement of the antitrust laws, both in mergers and conduct investigations. It is not always clear to the parties involved who will review a transaction or business practice. In June 2011, then-Chairman Leibowitz told the Senate Commerce Committee: "It is true that there are occasional clearance disputes over which agency is in the better position to investigate a matter . . . . The FTC and DOJ have a process in place to resolve clearance disputes, which helps resolve the issue quickly." Please provide the Subcommittee:

a. The precise process(es) for resolving these disputes;

b. Examples of the types of agreements that the Commission and the Department have reached in merger and non-merger clearance disputes, including how the parties determine which agency will review a subsequent transaction involving the same company or industry and the duration of such agreements; and

c. The number of such disputes since January 2009 and the average length of time such disputes lasted.

13. The Commission has issued two recent orders that address the meaning of commitments to license on fair, reasonable, and non-discriminatory (FRAND) terms. In *Bosch*, the Commission embraced an order and remedy that many believe represented progress on this issue. A month later, the Commission adopted a more complicated order and remedy in the Google matter, criticized by some as being weak and riddled with loopholes.

    a. Why did the Commission seek such a complicated (and potentially weakened) remedy in the Google matter?

    b. Please explain your view of the *Bosch* decision.

        i. Are you concerned about using a merger review process to require relief on unrelated conduct as a condition for clearing the deal?

14. In the debate over standard essential patents and FRAND commitments, much discussion has focused on the willingness of potential licensees to engage in negotiations.

    a. In your view, what does it mean to be a willing licensee?

    b. Is a licensee unwilling simply because it refuses to accept a stated demand as FRAND or demands that the party demonstrate that its portfolio is composed of valid and infringed patents that have some value apart from its inclusion in the standard?

    c. There has been comparatively little focus on the willingness of SEP holders to engage in good faith negotiations—that is, whether the SEP holder is a willing licensor. Would you agree that there is a burden on the SEP holder to demonstrate the value of its SEP portfolio, a burden that is generally not discharged by merely quoting a rate, particularly when the rate clearly exceeds traditional industry benchmarks?

15. The Commission statement accompanying its decision relating to Google's abuse of certain standard essential patents indicated that "Google's settlement with the Commission requires Google to withdraw its claims for injunctive relief on FRAND encumbered patents around the world."

    a. How many of those claims for injunctive relief have been withdrawn and how many are still open?

    b. What is the Commission doing to ensure compliance with its Order?

16. In testimony before our Committee last July, you expressed concerns about anticompetitive abuse of standard essential patents and stated that the Commission "believes that the ITC has the authority under its public interest obligations . . . to deny an exclusion order if the holder of the FRAND-encumbered SEP has not complied with its FRAND obligation." You also suggested that if the ITC did not act appropriately, Congress should consider giving the ITC more flexibility to deny exclusion orders in such cases.

    a. In your view, has the ITC responded to the concerns you raised?

    b. Do you worry about ITC decisions in cases involving FRAND-encumbered SEPs, given that the only available ITC remedy is an exclusion order?

    c. Do you believe that enforcement action based on anticompetitive abuse of FRAND-encumbered SEPs could and should be pursued under Section 2 of the Sherman Act?

17. At our Subcommittee's hearing last week, there was much discussion of legislation that would impose a presumption that all patent settlements between innovator pharmaceutical companies and generic companies are anticompetitive. By statute, the Commission is already entitled to receive notice of such settlements, so it has ample opportunity to review such settlements for any anticompetitive problems. Both federal statute and Supreme Court case law state that patents are presumed to be valid. 35 U.S.C. § 282; *Microsoft Corp. v. i4i Limited Partnership*, 131 S.Ct. 2238 (2011). Indeed, patent invalidity must be proved by the elevated standard of clear and convincing evidence. *Microsoft*, 131 S.Ct. at 2252. In addition, it is well-settled law that settlements of litigation are highly favored. Yet, your position on patent settlements legislation seems to contradict quite squarely these two well-settled, time-tested principles.

    a. How can you reconcile your position with these principles, particularly when the settlement occurs within the term of the patent?

    b. Do you really believe that all such settlements are necessarily anticompetitive?

    c. Under what conditions might such a settlement be procompetitive in its effect?

18. The Commission's estimated cost savings associated with legislation providing the FTC with additional authorities to prevent parties from settling Hatch-Waxman patent litigation appears to differ from both Office of Management and Budget (OMB) numbers in the President's FY 2014 proposal and previous Congressional Budget Office (CBO) cost savings figures. In fact, there appear to be three entirely different estimates of what, if any, savings there may be.

    a. In light of these discrepancies, what effort has the Commission taken to coordinate information sharing of studies, proposals, or assumptions with OMB and CBO to determine the accuracy and validity of estimated cost savings?

    b. What information related to patent settlements has the Commission received from either CBO or OMB?

c. Has the Commission received any data or information from other public or private organization on patent settlements upon which it has relied in making assumptions about savings from patent settlements? If so, which entities?

19. Many in the IP community are concerned by the growing number of instances in which established operating companies transfer their patents to patent assertion entities (PAEs), so that these entities can target the established company's competitors. Some reports suggest that the operating companies often retain a revenue interest in the assertion of the transferred patents, which have included patents that are subject to commitments to license on FRAND terms. Last week, the Commission's directors of both economics and competition said that they support the issuance of a Section 6(b) order to investigate the PAE industry.

    a. Would you support such an order? If not, why not?

20. Both China and India have draft guidelines or policies that would make it an abuse of intellectual property rights for a dominant company unconditionally and unilaterally to refuse to license its critical intellectual property rights to a competitor who needs access to those rights to compete and innovate. These initiatives are clearly inconsistent with the DOJ's and FTC's Antitrust Guidelines for the Licensing of Intellectual Property, as well as U.S. case law, and could significantly harm innovative American companies operating overseas by undermining their intellectual property.

    a. What is the Commission doing about these broad intellectual property abuse policies that are emerging in key foreign jurisdictions?

    b. Because unconditional refusals to license strike at the heart of intellectual property rights, are you also working with USTR and the PTO to develop a holistic approach for influencing activities overseas?

    c. Are you concerned that open-ended tests for abuse may allow foreign governments to use antitrust policy as a backdoor means for usurping the intellectual property rights of U.S. companies?

21. Some have expressed concern about consumer harm in the prescription eyeglass and contact lens industry. Requiring consumers to obtain a prescription prior to purchasing a product impedes free market forces. Circumstances in which the prescriber is also the retailer of the prescribed product presents a conflict of interest that may lead to anticompetitive behavior. This is especially true when the product is prescribed by brand, locking a consumer into purchasing the brand selected by the prescriber. The Commission has historically taken steps to promote consumer choice in such markets, such as by promulgating the Eye Glass Rule in the late 1970s and the Contact Lens Rule, which implemented the Fairness to Contact Lens Consumers Act, nearly a decade ago. Both of these rules guarantee that upon completion of an eye exam, a consumer has the automatic right to receive copies of his prescriptions without having to make a request, pay a fee, or sign a waiver. These rules provide consumers with the opportunity to exercise that choice when buying contact lenses or eyeglasses.

a. Despite the requirement that patients receive eyeglass prescriptions including all "written specifications. . . necessary to obtain lenses for eyeglasses,"[3] pupillary distance (P/D) measurement is instead typically taken at the store where the eyeglasses are purchased. Now that eyeglasses are available online, it is important that P/D is included in prescriptions given consumers—as required by law—allowing them freedom to purchase eyeglasses where they want, whether at a brick-and-mortar store or online. To help ensure that consumers have this choice, will the Commission issue guidance reminding prescribers of their legal obligation to include on prescriptions all parameters necessary to produce lenses, including the P/D?

22. Under your predecessor, the Commission showed leadership in supporting the development of transparency and procedural fairness norms internationally. That work has been done in the OECD and is now being conducted in the ICN. It has also been incorporated into the Trans-Pacific Partnership and there will be an opportunity to do so in the US-EU Transatlantic Trade and Investment Partnership.

    a. What do you think about the need for increased transparency and due process in antitrust proceedings globally?

    b. Do you plan to continue to work in a similar vein as your predecessors in bringing these issues to forefront of the international antitrust policy debate?

23. Competition policy advocacy has traditionally been an important part of the Commission's role. As part of this function, the Commission recently sent comments to the Colorado PUC to discourage potential taxi regulations that would have had a negative impact on apps like Uber. You recently said that you hope to make the Commission's "research function" a priority during your term as Chair.

    a. Will you commit to devote the Commission's research and advocacy functions to support the development of new entrants to markets that bring competition to consumers and generally lower prices?

[3] 16 CFR 456.1(g).

Prepared Statement of
the Federal Trade Commission

Before the
United States Senate
Committee on the Judiciary
Subcommittee on Antitrust, Competition Policy and Consumer Rights

"Oversight of the Enforcement of the Antitrust Laws"

Washington, D.C.
April 16, 2013

Chairman Klobuchar, Ranking Member Lee, and Members of the Subcommittee, thank you for the opportunity to appear before you today. I am Edith Ramirez, Chairwoman of the Federal Trade Commission, and I am pleased to testify on behalf of the Commission and discuss some of our current competition enforcement activities.[1]

As the members of this Subcommittee know, competitive markets are the foundation of our economy, and effective antitrust enforcement is essential for those markets to function well. Vigorous competition promotes economic growth and overall consumer welfare by keeping prices competitive, expanding output and the variety of choices available, and promoting innovation.

I. The FTC's Competition Enforcement Work

The Commission seeks to promote and protect competition through an evidenced-based, balanced approach to law enforcement. The FTC has jurisdiction over a wide swath of the economy and focuses its enforcement efforts on sectors that most directly affect consumers, such as health care, technology, and energy. The FTC continues to examine potentially anticompetitive mergers and conduct that are likely to harm competition and consumers, and takes action where appropriate.

One of the agency's principal responsibilities is to prevent mergers that may substantially lessen competition. Pre-merger filings under the Hart-Scott-Rodino Act continue to recover from recessionary levels—indeed, FY 2012 saw twice as many filings as FY 2009.[2] Agency staff reviews the filings, and a small number of the proposed mergers require additional investigation

[1] This written statement represents the views of the Federal Trade Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or of any other Commissioner. Commissioner Wright has voted to issue this Statement but takes no position with respect to enforcement actions or other matters that occurred prior to his tenure as Commissioner.

[2] In FY 2012, there were 1,400 adjusted transactions reported to the Agencies (transactions in which a second request could have been issued). Comparatively, in FY 2009 there were 684 such transactions.

to determine whether they are likely to violate Clayton Act Section 7. During FY 2012, the Commission challenged 25 mergers after the evidence showed that they would likely be anticompetitive.[3] In the current fiscal year, the Commission has challenged 11 mergers,[4] including two actions where the Commission sought a preliminary injunction in federal court to prevent consummation of the mergers.[5]

The FTC has also made significant progress in its ongoing efforts[6] to review and update rules, regulations, and guidelines periodically so that they remain current, effective, and not unduly burdensome. For instance, the Commission has revised its rules governing administrative litigation to hold respondents, complaint counsel, the administrative law judge, and the Commission to aggressive timelines for discovery, motions practice, trial, and adjudication.[7] The result is a faster-paced administrative process, one comparable to or even faster than federal court timelines for similar actions.[8]

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[3] Seven proposed mergers were abandoned or restructured after FTC staff raised competitive concerns; fifteen were resolved by entry of Commission consent orders; and in three, the FTC filed complaints to stop the mergers pending a full administrative trial. See case summaries in the FTC's Competition Enforcement Database, *available at* http://www.ftc.gov/bc/caselist/merger/total/2012.pdf.

[4] See cases listed at http://www.ftc.gov/bc/caselist/merger/total/2013.pdf; several are discussed in more detail *infra*.

[5] Press Release, FTC and Pennsylvania Attorney General Challenge Reading Health System's Proposed Acquisition of Surgical Institute of Reading (Nov. 16, 2012), *available at* http://ftc.gov/opa/2012/11/reading.shtm; Press Release, FTC Issues Complaint Seeking to Block Integrated Device Technology, Inc.'s Proposed $330 Million Acquisition of PLX Technology, Inc. (Dec. 18, 2012), *available at* http://www.ftc.gov/opa/2012/12/idtplx.shtm.

[6] *See, e.g.*, Prepared Statement on The FTC's Regulatory Reform Program: Twenty Years of Systematic Retrospective Rule Reviews & New Prospective Initiatives to Increase Public Participation and Reduce Burdens on Business Before the House Committee on Energy and Commerce Subcommittee on Oversight and Investigations, 112th Congress (July 7, 2011), *available at* http://www.ftc.gov/os/testimony/110707regreview.pdf.

[7] Press Release, FTC Issues Final Rules Amending Parts 3 and 4 of the Agency's Rules of Practice (Apr. 27, 2009), *available at* http://www.ftc.gov/opa/2009/04/part3.shtm. In August 2011, the Commission made additional changes relating to discovery, the labeling and admissibility of certain evidence, and deadlines for oral arguments. Press Release, FTC Modifies Part 3 of Agency's Rules of Practice (Aug. 12, 2011), *available at* http://www.ftc.gov/opa/2011/08/part3.shtm.

[8] For example, after the Commission voted unanimously on January 6, 2011, to challenge a hospital merger in Toledo, Ohio, FTC lawyers filed an administrative complaint and, with the Ohio Attorney General, a motion for a preliminary injunction in federal court in Ohio. After a two-day trial, the federal judge issued a preliminary injunction on March 29 preventing further integration. Meanwhile, both FTC complaint counsel and the respondents prepared for a full administrative trial that began on May 31, 2011. After 30 days of testimony and motions, including 81 witnesses and over 2,700 exhibits, the ALJ heard closing arguments on September 29. Overall, within

This testimony highlights these and other key Commission efforts to promote competition in crucial health care, technology, and energy markets.

A. Promoting Competition in Health Care Markets

The rising cost of health care is a serious concern for most Americans. Health care consolidation can threaten to undermine efforts to control these costs, and it is critical that the Commission act to preserve and promote competition in health care markets. Competition encourages market participants to deliver cost-effective, high-quality care and to pursue innovation to further these goals.[9]

1. Stopping Anticompetitive Health Care Mergers

A number of FTC merger enforcement actions in the past several years have involved companies in health care markets: hospitals, pharmacies, medical device and pharmaceutical manufacturers, and other market participants.

In particular, the Commission has redoubled its efforts to prevent hospital mergers that may leave insufficient local options for in-patient hospital services, leading to higher prices for health care. In the last two years, the Commission has successfully prevented anticompetitive

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nine months, FTC staff prosecuted both a preliminary injunction action and a trial on the merits, which is a timeframe comparable to a fast-track litigation in federal district court.

[9] For a complete list of FTC enforcement actions relating to health care, see Overview of FTC Antitrust Actions in Health Care Services and Products, *available at* http://www.ftc.gov/bc/healthcare/antitrust/hcupdate.pdf and Overview of FTC Antitrust Actions in Pharmaceutical Services and Products, *available at* http://www.ftc.gov/bc/healthcare/antitrust/rxupdate.pdf.

hospital mergers in Toledo, Ohio,[10] and Rockford, Illinois,[11] as well as allegedly anticompetitive mergers involving other types of health care facilities.[12]

Additionally, in February, the Supreme Court unanimously ruled in favor of the Commission, reviving the Commission's challenge to a hospital merger resulting in an alleged monopoly for inpatient services in the Albany, Georgia area. [13] In so ruling, the Court accepted the Commission's argument that the state action doctrine did not exempt the acquisition from antitrust scrutiny. It held that the Georgia legislature did not articulate a clear policy that hospital authorities could eliminate competition through a hospital merger by merely conferring general corporate powers on the local hospital authority. The administrative hearing will commence this summer.[14]

In addition to mergers between competing hospitals, the Commission is also increasingly concerned about the effect of combinations involving other health care providers. Much like hospitals mergers, these transactions can lead to higher health care costs. In March 2013, the Commission, along with the Idaho Attorney General, filed suit to prevent Idaho's dominant hospital system from raising health care costs through its acquisition of the state's largest multi-

[10] Press Release, Citing Likely Anticompetitive Effects, FTC Requires ProMedica Health System to Divest St. Luke's Hospital in Toledo, Ohio, Area (Mar. 28, 2012), *available at* http://www.ftc.gov/opa/2012/03/promedica.shtm. An appeal of the Commission's order is pending before the Sixth Circuit. *ProMedica Health Sys., Inc. v. FTC,* No. 12-3583 (6th Cir. appeal docketed May 18, 2012).

[11] Press Release, OSF Healthcare System Abandons Plan to Buy Rockford in Light of FTC Lawsuit; FTC Dismisses its Complaint Seeking to Block the Transaction (Apr. 13, 2012), *available at* http://www.ftc.gov/opa/2012/04/rockford2.shtm.

[12] For instance, the Commission took action to remedy the alleged anticompetitive effects of a merger of a hospital and a surgery center in Reading, Pennsylvania, Press Release, FTC and Pennsylvania Attorney General Challenge Reading Health System's Proposed Acquisition of Surgical Institute of Reading (Nov. 16, 2012), *available at* http://www.ftc.gov/opa/2012/11/reading.shtm., and required a divestiture in a merger of facilities providing inpatient psychiatric services. Press Release, FTC Puts Conditions on UHS's Proposed Acquisition of Ascend Health Corporation (Oct. 5, 2012), *available at* http://www.ftc.gov/opa/2012/10/uhs.shtm. The Commission also prevented the merger of two long-term care pharmacies that provide medications to skilled nursing homes. *See* Press Release, Omnicare Abandons Plan to Buy Rival Pharmacy in Light of FTC Lawsuit; FTC Votes to Dismiss its Complaint Seeking to Block the Transaction (Feb. 23, 2012), *available at* http://www.ftc.gov/opa/2012/02/omnicare.shtm.

[13] *FTC v. Phoebe Putney Health Sys. Inc.,* 133 S. Ct. 1003 (2013).

[14] *Phoebe Putney Health Sys. Inc.,* Docket No. 9348 (April 3, 2013) (order denying Respondents' motion to reschedule hearing date), *available at* http://www.ftc.gov/os/adjpro/d9348/130403phoebeorder.pdf.

specialty physician group.[15] While the Commission has concerns about consolidation among health care providers, we will not stand in the way of legitimate provider collaboration that will reduce costs and improve the quality of care.

The Commission also continues to review mergers between pharmaceutical manufacturers to prevent transactions or combinations that may allow companies to exercise market power by raising prices on needed medications. For instance, in the last two years, the Commission required divestitures to remedy competitive concerns stemming from eight proposed mergers between drug makers, preserving competition in the sale of over 40 drugs.[16]

2. Combatting Efforts to Stifle Generic Competition

A top priority for the Commission over the past decade has been ending anticompetitive "pay-for-delay" agreements: settlements of patent litigation in which a branded pharmaceutical manufacturer pays the generic manufacturer to keep its competing product off the market for a certain time. We of course are aware of Chairman Klobuchar, Senator Grassley and others' bill to address pay-for-delay agreements and appreciate your efforts in this important area. These agreements enable branded manufacturers to buy more protection from competition than the assertion of their patent rights alone provide. The agreements profit both the branded

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[15] Press Release, FTC and Idaho Attorney General Challenge St. Luke's Health System's Acquisition of Saltzer Medical Group as Anticompetitive (Mar. 12, 2013), *available at* http://www.ftc.gov/opa/2013/03/stluke.shtm. Additionally, in December 2012, the FTC finalized a consent decree with the largest hospital system in Reno, Nevada, designed to restore competition to the market for cardiology services there following Renown's acquisition of two local cardiology groups allegedly threatened competition in that market. Press Release, FTC Order Will Restore Competition for Adult Cardiology Services in Reno, Nevada (Aug. 6, 2012), *available at* http://www.ftc.gov/opa/2012/08/renownhealth.shtm.

[16] *Watson Pharms.*, Docket No. C-4373 (Dec. 14, 2012) (consent order), *available* at http://www.ftc.gov/os/caselist/1210132/index.shtm; *Novartis AG*, Docket No. C-4364 (Sept. 5, 2012) (consent order), *available* at http://www.ftc.gov/os/caselist/1210144/index.shtm; *Valeant Pharm. Int'l, Inc.*, Docket No. C-4342 (Feb. 22, 2012) (consent order), *available* at http://www.ftc.gov/opa/2012/02/valeant.shtm; *Teva Pharm., Inc.*, Docket No. C-4335 (July 2, 2012) (consent order), *available at* http://www.ftc.gov/os/caselist/1110166/index.shtm; *Hikma Pharms.*, Docket No. C-4320 (June 7, 2011) (consent order), *available at* http://www.ftc.gov/os/caselist/1110051/index.shtm; *Grifols S.A.*, Docket No. C-4322 (July 22, 2011) (consent order), *available at* http://www.ftc.gov/os/caselist/1010153/index.shtm; *Perrigo Co.*, Docket No. C-4329 (June 26, 2012) (consent order), *available at* http://www.ftc.gov/os/caselist/1110083/index.shtm.

manufacturers, who continue to charge monopoly prices, and the generic manufacturers, who receive substantial compensation for agreeing not to compete.

These agreements, however, impose substantial costs on consumers, businesses, and taxpayers—as much as $3.5 billion each year according to FTC economists[17]—and their numbers are growing. According to our most recent data, in FY 2012, the number of potentially anticompetitive patent dispute settlements between branded and generic drug companies increased significantly compared with FY 2011, jumping from 28 to 40.[18] Overall, the FY 2012 agreements covered 31 different brand-name pharmaceutical products with combined annual U.S. sales of more than $8.3 billion.

On March 25, 2013, the Supreme Court heard arguments in *FTC v. Actavis, Inc.*,[19] a Commission appeal of the Eleventh Circuit's dismissal of a challenge to an alleged "pay-for-delay" agreement involving the testosterone-replacement drug AndroGel. The Eleventh Circuit's decision followed a string of decisions from the courts of appeals largely insulating these agreements from antitrust scrutiny, a trend broken last year by the Third Circuit's ruling in the *In re K-Dur* litigation, which found the agreements presumptively unlawful.[20] We are hopeful for a favorable decision from the Supreme Court that stops these anticompetitive settlements.[21]

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[17] Fed. Trade Comm'n, Pay For Delay: How Drug Company Pay-Offs Cost Consumers Billions (Jan. 2010), *available at* http://www.ftc.gov/os/2010/01/100112payfordelayrpt.pdf.

[18] Press Release, FTC Study: In FY 2012, Branded Drug Firms Significantly Increased the Use of Potential Pay-for-Delay Settlements to Keep Generic Competitors off the Market (Jan. 17, 2013), *available at* http://www.ftc.gov/opa/2013/01/mmarpt.shtm.

[19] *FTC v. Actavis, Inc.*, 2013 U.S. LEXIS 9415, *cert. granted*, 133 S. Ct. 787 (U.S. Dec. 7, 2012) (No. 12-146). When the Supreme Court granted certiorari, the case name was *Federal Trade Commission v. Watson Pharmaceuticals, Inc.* On January 24, 2013, Watson notified the Supreme Court that the company had changed its name to "Actavis, Inc.," which resulted in the Supreme Court modifying the name of the case.

[20] 686 F.3d 197 (3d Cir. 2012).

[21] A large number of amici, including the American Medical Association, 118 law, economics, and business professors, and 36 states plus the District of Columbia and the Commonwealth of Puerto Rico, supported our position.

In addition to our pay-for-delay efforts, the Commission continues to monitor other strategies adopted by branded pharmaceutical companies that may be designed to delay or prevent generic entry. For example, we recently filed amicus briefs in private antitrust litigations involving two of these strategies. One involved the potentially anticompetitive abuses of safety protocols known as Risk Evaluation and Mitigation Strategies ("REMS") to prevent a generic from being able to access samples of brand products to begin the bioequivalence testing process required by the Hatch-Waxman Act.[22] The other involves product hopping, which occurs when brand companies, facing a threat of generic competition, make minor non-therapeutic changes to their products.[23] While these changes may offer little or no benefit to patients, they may enable the brand to preserve its monopoly by preventing generic substitution at the pharmacy level, which is a key to competition in the pharmaceutical industry.

B. Antitrust Oversight in Technology Markets

The Commission also takes a balanced and fact-based approach to enforcement in fast-paced technology markets. In some cases, the evidence supports a finding of competitive harm that requires Commission action. The Commission recently challenged a proposed merger between Integrated Device Technology, Inc. and PLX Technology, Inc. Both companies make Peripheral Component Interconnect Express ("PCIe") switches, complex integrated circuits used to transmit data between processor chips and various endpoints in computer systems, such as

[22] Fed. Trade Comm'n, Brief as Amicus Curiae, *Actelion Pharms. Ltd.,v. Apotex Inc.*, No. 12-05743 (D.N.J. Mar. 11, 2013).
[23] Fed. Trade Comm'n, Brief as Amicus Curiae, *Mylan Pharms., Inc. v. Warner Chilcott Pub. Ltd. Co.*, No. 12-3824 (E.D. Pa. Nov. 21, 2012).

memory or graphics cards. There was substantial evidence of intense head-to-head competition on both price and innovation and a post-merger market share of over 80 percent in that matter.[24]

At other times, the evidence supports a more cautious approach. For instance, the Commission voted unanimously to close its investigation into allegations that Google harmed competition by unfairly preferencing its own content on the Google search results page and selectively demoting its competitors' content, a practice some refer to as "search bias." The Commission concluded that challenging Google's product design decisions would require the Commission or a court to second-guess Google's product design in the face of plausible procompetitive justifications, where the evidence reasonably could be viewed as showing that Google's design decisions improved the overall quality of Google search results. Based on this evidence, the Commission did not have reason to believe that Google's business practices were, on balance, demonstrably anticompetitive. Google did agree to make changes to certain other business practices that some members of the Commission found objectionable.[25]

The Commission also took action to stop Google's alleged misuse of standard essential patents ("SEPs"). Specifically, the Commission alleged that Google violated commitments made to several standard setting organizations to license patents essential to implementing several technology standards on fair, reasonable and non-discriminatory terms ("FRAND") to any interested manufacturer. The SEPs at issue were originally held by Motorola Mobility ("MMI") and covered technologies essential to interoperability standards used in a range of popular

[24] Press Release, FTC Issues Complaint Seeking to Block Integrated Device Technology, Inc.'s Proposed $330 Million Acquisition of PLX Technology, Inc. (Dec. 18, 2012), *available at* http://www.ftc.gov/opa/2012/12/idtplx.shtm. The parties abandoned the deal soon after the Commission filed suit.

[25] Google agreed to remove restrictions on the use of its online search advertising platform, AdWords, that may have made it more difficult for advertisers to coordinate online advertising campaigns across multiple platforms. Google also agreed to give websites the ability to "opt out" of display on Google vertical properties. *See* Letter from David Drummond, Senior Vice President and Chief Legal Officer, Google, Inc., to Chairman Jon Leibowitz, Fed. Trade Comm'n (Dec. 27, 2012), *available at* http://www.ftc.gov/os/2013/01/130103googleletterchairmanleibowitz.pdf.

devices such as smartphones, tablets, and gaming consoles. MMI, and then Google (after it acquired the MMI patent portfolio), allegedly refused to license the SEPs to willing licensees on FRAND terms, after manufacturers had developed standard compliant products in reliance on those commitments. In its administrative complaint, the Commission charged that Google engaged in unfair methods of competition and unfair acts and practices in violation of Section 5 of the Federal Trade Commission Act by seeking injunctions on SEPs for which FRAND promises had been made, thus threatening to harm the standard-setting process, impair competition in the markets for products using those patents, and ultimately, raise prices to consumers. To settle those charges, Google has agreed not to seek an injunction for infringement of its SEPs unless and until it has followed the process outlined in the Commission's proposed order, a process that encourages negotiation with potential licensees over disputed terms or ruling by a neutral third party.[26]

The proposed order in the Google-MMI decision is the most recent action[27] in more than two decades of Commission work involving complex issues at the intersection of antitrust and intellectual property law, issues pertaining to innovation, standard-setting, and patents. For instance, in 2003 and 2007, the Commission issued reports on competition and patent law,[28] and

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[26] Commissioner Ohlhausen voted against the proposed consent agreement in Google/MMI and issued a dissenting statement, which is available at http://www.ftc.gov/os/caselist/1210120/130103googlemotorolaohlhausenstmt.pdf.

[27] In a proposed order in November 2012, the Commission required largely similar commitments regarding SEPs from Robert Bosch GmbH. In order to proceed with its acquisition of SPX Service Solutions, Bosch agreed to sell its automotive air conditioner repair equipment business and to abandon SPX's claims to injunctive relief after SPX reneged on FRAND commitments involving SEPs for its equipment. Press Release, FTC Order Restores Competition in U.S. Market for Equipment Used to Recharge Vehicle Air Conditioning Systems (Nov. 26, 2012), *available at* http://www.ftc.gov/opa/2012/11/bosch.shtm. Commissioner Ohlhausen voted against the proposed consent agreement in *Bosch* and issued a separate statement, which is available at http://www.ftc.gov/os/caselist/1210081/121126boschohlhausenstatement.pdf.

[28] Fed. Trade Comm'n and Dep't of Justice, Antitrust Enforcement and Intellectual Property Rights: Promoting Innovation and Competition (2007), *available at* http://www.ftc.gov/reports/innovation/P040101PromotingInnovationandCompetitionrpt0704.pdf; Fed. Trade Comm'n, To Promote Innovation: The Proper Balance of Competition and Patent Law and Policy (2003), *available at* http://www.ftc.gov/os/2003/10/innovationrpt.pdf.

in 2011, we issued another significant patent study, focusing on notice and remedies.[29] That same year we held a workshop to learn more about licensing in the standard-setting context and how standard-setting organizations and their members have dealt with the risk of patent hold-up.[30] Last December, the FTC and DOJ held a joint workshop to discuss the activities of patent assertion entities.[31] In addition to this policy work, the Commission has brought several cases involving anticompetitive conduct by technology companies for undermining the standard-setting process.[32]

The Commission will continue to foster an ongoing dialogue with stakeholders in this important area, and bring enforcement actions when necessary to prevent the distortion of the standard-setting process, which is so critical to the development of new products that benefit consumers and drive the American economy.

C. Preserving Competition in Energy Markets

Few issues are more important to consumers and businesses alike than the prices they pay for gasoline to run their vehicles and energy to heat and light their homes and businesses. Accordingly, the FTC works to maintain competition in energy industries, invoking all the powers at its disposal—including monitoring industry activities, investigating possible antitrust violations, prosecuting cases, and conducting studies—to protect consumers from anticompetitive conduct in the industry.

Mergers can significantly affect competition in energy markets, and the Commission's review of proposed mergers is essential to preserving competition in these markets. The FTC

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[29] Fed. Trade Comm'n, The Evolving IP Marketplace: Aligning Patent Notice and Remedies with Competition (2011), *available at* http://www.ftc.gov/os/2011/03/110307patentreport.pdf.
[30] Fed. Trade Comm'n Workshop, Tools to Prevent Patent "Hold-Up" (June 21, 2011); materials available at http://www.ftc.gov/opp/workshops/standards/index.shtml.
[31] The workshop materials are available at http://www.ftc.gov/opp/workshops/pae/.
[32] *Dell Computer Corp.*, 121 F.T.C. 616 (1996); *Union Oil Co. of Cal.*, 140 F.T.C. 123 (2005); *Rambus Inc.*, 2007 F.T.C. LEXIS 13 (2007); *Negotiated Data Solutions, LLC*, 2008 F.T.C. LEXIS 120 (2008).

devotes significant resources to reviewing proposed mergers and acquisitions involving petroleum and other energy products, and to taking action where appropriate. As a recent example, last year the FTC required Kinder Morgan, Inc., one of the largest U.S. transporters of natural gas and other energy products, to sell three natural gas pipelines and two gas processing plants and associated storage capacity in the Rocky Mountain region to settle the Commission's charges that the acquisition likely would have been anticompetitive.[33] In another 2012 action, the FTC issued a consent order requiring that AmeriGas L.P. amend its proposed acquisition of Energy Transfer Partners' Heritage Propane business. AmeriGas and Heritage are two of the nation's largest propane distributors, and the FTC charged that the acquisition would reduce competition and raise prices in the market for propane exchange cylinders that consumers use to fuel barbeque grills and patio heaters.[34]

The Commission also participates in the Oil and Gas Price Fraud Working Group created by the Attorney General to monitor oil and gas markets for potential violations of criminal or civil laws.

Additionally, the FTC continues to monitor daily retail and wholesale prices of gasoline and diesel fuel in 20 wholesale regions and approximately 360 retail areas across the United States. This daily monitoring serves as an early-warning system to alert our experts to unusual pricing activity, and helps the agency identify appropriate targets for further investigation of potentially anticompetitive conduct.[35] We also use the data generated by the monitoring project

[33] Press Release, FTC Requires Kinder Morgan to Sell Rocky Mountain Pipelines as a Condition of Acquiring El Paso Corporation (May 1, 2012), *available at* http://www.ftc.gov/opa/2012/05/elpaso.shtm.
[34] Press Release, FTC Puts Conditions on AmeriGas's Proposed Acquisition of Rival Propane Distributor Heritage Propane (Jan. 11, 2012), *available at* http://www.ftc.gov/opa/2012/01/amerigas.shtm.
[35] *See* Gasoline and Diesel Price Monitoring, *available at* http://www.ftc.gov/ftc/oilgas/gas_price.htm.

in conducting periodic studies of the factors that influence the prices that consumers pay for gasoline.[36]

II. Cooperation with Other Antitrust Enforcers

Over the years, the Commission has fostered partnerships with other antitrust enforcers, most notably, the Antitrust Division of the Department of Justice. Recent joint efforts resulted in the publication of two significant policy statements—the revised Horizontal Merger Guidelines and the Antitrust Enforcement Policy Statement Regarding Accountable Care Organizations—that enhance the consistency, clarity, and transparency of U.S. antitrust policy and enforcement. Additionally, the agencies recently co-hosted two workshops: one exploring the antitrust implications of most-favored-nation clauses[37] and, as mentioned above, another exploring the impact of patent assertion entities. The Commission understands the special obligation of the law enforcement agencies to speak with one voice whenever possible in important areas of U.S. antitrust policy, and to work in tandem to promote the interests of American consumers.[38]

It is also crucial for the U.S. antitrust agencies to cooperate with our counterparts worldwide to ensure that competition laws functions coherently and effectively now that antitrust enforcement has gone global, with well over 120 jurisdictions enforcing a variety of competition laws. The FTC has developed strong bilateral relationships with many of our sister agencies and works with its foreign counterparts in multilateral fora to promote cooperation and convergence

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[36] A 2011 report by the staff of the Commission's Bureau of Economics concludes that while a broad range of factors influence the price of gasoline, worldwide crude oil prices continue to be the main driver of what Americans pay at the pump. *See* Press Release, FTC Issues New Report on Gasoline Prices and the Petroleum Industry (Sept.1, 2011), *available at* http://www.ftc.gov/opa/2011/09/gasprices.shtm.

[37] Press Release, FTC and Department of Justice to Hold Workshop on "Most-Favored-Nation" Clauses (Aug. 17, 2012), *available at* http://www.ftc.gov/opa/2012/08/mfn.shtm.

[38] The FTC also routinely coordinates on law enforcement efforts with state attorneys general. For example, last month, the FTC and Idaho Attorney General jointly investigated and sued to block an Idaho hospital from acquiring the state's largest multi-specialty physician practice group. *See* Press Release, FTC and Idaho Attorney General Challenge St. Luke's Health System's Acquisition of Saltzer Medical Group as Anticompetitive (Mar. 12, 2013), *available at* http://www.ftc.gov/opa/2013/03/stluke.shtm.

toward sound competition policy. The past few years have seen some important milestones for international cooperation. For example, the FTC and DOJ entered into a Memorandum of Understanding ("MOU") with the three Chinese antitrust agencies aimed at promoting greater communication and cooperation,[39] and signed a similar MOU with antitrust enforcers in India last fall.[40] In addition, at the recent annual bilateral consultations with the European Commission's Directorate General for Competition ("DG COMP"),[41] the FTC, DOJ, and EC issued revised Best Practices on Cooperation in Merger Investigations.[42] In a world where commerce knows no borders, international cooperation has proven to be a critical component of effective antitrust enforcement.

Through these and other activities, the FTC is well-positioned to combat harmful conduct and mergers and encourage policies at home and abroad that support competitive markets.

Conclusion

Thank you for this opportunity to share highlights of the Commission's recent work to promote competition and protect consumers. The Commission looks forward to continuing to work with the Subcommittee to ensure that our antitrust laws and policies are sound and that they benefit consumers without unduly burdening businesses.

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[39] Press Release, Federal Trade Commission and Department of Justice Sign Antitrust Memorandum of Understanding With Chinese Antitrust Agencies (July 27, 2011), *available at* http://www.ftc.gov/opa/2007/06/chinamou.shtm.

[40] Press Release, FTC and DOJ Sign Memorandum of Understanding With Indian Competition Authorities (Sept. 27, 2012), *available at* http://www.ftc.gov/opa/2012/09/indiamou.shtm.

[41] The European Commission, together with the national competition authorities, enforces EU competition rules. Within the Commission, DG-Comp is primarily responsible for investigation and enforcement of these rules. http://ec.europa.eu/dgs/competition/index_en.htm.

[42] Press Release, United States and European Union Antitrust Agencies Issue Revised Best Practices for Coordinating Merger Reviews (Oct. 14, 2011), *available at* http://www.ftc.gov/opa/2011/10/eumerger.shtm.

Office of the Secretary

Correspondence Referral

Remember to Designate FOIA Status

Today's Date: 04/04/13

Reference Number: 14008118

Type of Response (or) Action:
Complaint

Date Forwarded:
04/04/13

Action: Commission Approval

Subject of Correspondence:

Invitation to Testify at a Hearing Entitled: "Oversight of the Enforcement of the Antitrust Laws" on April 16, 2013

Author:
Senator Amy Klobuchar

Representing:

Copies of Response To:

Deadline:
04/12/13

Copies of Correspondence To:

Organization Assigned:
Policy and Coordination - BC

ACTION LOG

Date Received	FTC Org. Code	Assignment To:	Date Assigned	Action Required
	1039			

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 3, 2013

The Honorable Edith Ramirez
Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC

Dear Ms. Ramirez:

I invite you to testify on April 16, 2013, at the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, hearing entitled, "Oversight of the Enforcement of the Antitrust Laws." The hearing is scheduled to begin at 2:30 p.m. in room 226 of the Dirksen Senate Office Building.

Committee rules require that you provide electronic copies of your testimony and biography for distribution to members of the Committee at least 24 hours before the hearing is scheduled to begin. Please send them to the attention of Maria Laverdiere at Maria_Laverdiere@klobuchar.senate.gov.

Please contact Caroline Holland at 202-224-3244 or caroline_holland@judiciary-dem.senate.gov with any questions. We look forward to your testimony.

Sincerely,

Amy Klobuchar

1400818

Amy Klobuchar
Chairman, Subcommittee on
Antitrust, Competition Policy,
and Consumer Rights

Not Responsive

From: Kent Walker [mailto:kwalker@google.com]
Sent: Tuesday, January 01, 2013 11:20 AM
To: Feinstein, Richard
Subject: Fwd: [FOR SIGNATURE] Commitments Letter

Rich --
Good to talk with you. Here's the signature page for the commitment letter. With that, I think you have everything you need from us, but let me know if there's anything outstanding on our end. We're currently assuming that the Commission will announce on Thursday, so if Wednesday starts to look more likely, please let us know as soon as you can. Also, we're happy to have the press people in touch whenever it's appropriate.

Thanks, and all the best for the new year.
-- Kent

networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

* * *

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.

Sincerely,

David Drummond
Google Inc.
Senior Vice President of Corporate Development
and Chief Legal Officer

Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Monday, December 17, 2012 4:40 PM
To: Widnell, Nicholas; Feinstein, Richard; Donald Harrison
Subject: 5PM ET/2PM PT Call

We'd like to have a call at 5pm ET/2pm PT regarding the SEP Package – will that work for everybody?

(b)(3):6(f),(b)(4),(b)(7)(E)
(b)(3):6(f),(b)(4),(b)(7 Participant Passcode

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Concurring and Dissenting Statement of Commissioner J. Thomas Rosch
Regarding Google's Search Practices

In the Matter of Google Inc., FTC File No. 111-0163

January 3, 2012

The Commission has voted to close its investigation of Google's non-SEP search engine practices following the company's non-binding pledge to resolve concerns related to its alleged misappropriation ("scraping") of content from other websites and its multihoming policy. None of my colleagues has concluded that there is reason to believe that these practices violate any antitrust statute, including Section 5 of the FTC Act. Three of them simply express "strong concerns" about Google's alleged scraping and two of them similarly express "strong concerns" about Google's multihoming restrictions. (Commission Statement at 1 n.2.) Those same two commissioners suggest that their "strong concerns" have been resolved by Google's unilateral pledge not to revive those practices. However, this "settlement" is not embodied in a consent decree or other order.

Although I concur with the Commission's decision to close this investigation, I have dissented from the Commission's Closing Statement for two reasons.[1] The first is substantive: the two practices do not violate the antitrust laws in any respect. The second is procedural: without a consent decree, the practices could be revived at any time without penalty, even if they constituted a law violation. In other words, after promising an elephant more than a year ago, the Commission instead has brought forth a couple of mice.

Scraping

Google has committed to provide a mechanism that will allow websites to opt out of being displayed in Google's vertical search results but remain in Google's organic search results. This new functionality is intended to remedy allegations that Google misappropriated, or "scraped," the content of three rival websites that supply local information or shopping comparison services. I do not agree that Google's alleged scraping violated the antitrust laws for several reasons.

[1] I also have concerns that insofar as Google has monopoly or near-monopoly power in the search advertising market and this power is due in whole or in part to its power over searches generally, nothing in this "settlement" prevents Google from telling "half-truths"—for example, that its gathering of information about the characteristics of a consumer is done solely for the consumer's benefit, instead of also to maintain a monopoly or near-monopoly position. *See International Harvester Co.*, 104 F.T.C. 949, 1058 (1984) ("[I]t can be deceptive to tell only half the truth, and to omit the rest."); *North American Philips Co.*, 111 F.T.C. 139, 188 (1988) (initial decision) (holding that half-truths can be deceptive). That is a genuine cause for "strong concern."

First, there is no factual or legal basis for a monopoly maintenance claim under Section 2 of the Sherman Act based on scraping. As an initial matter, Google does not have monopoly or near-monopoly power in any conceivable relevant market related to the challenged practice.[2] In a local information or shopping comparison market, for example, Google's share at the time of the scraping was in the single digits.

In addition, I am not aware of any legal authority that scraping a rival's public website is a form of exclusionary conduct that is actionable under Section 2. The Supreme Court has cautioned against creating antitrust liability for ordinary business torts. *See Brooke Group v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 225 (1993) ("[T]he federal antitrust laws . . . do not create a federal law of unfair competition or 'purport to afford remedies for all torts committed by or against persons engaged in interstate commerce.'" (quoting *Hunt v. Crumboch*, 325 U.S. 821, 826 (1945))). The lower federal courts have only found misappropriation to be an exclusionary act that is actionable under Section 2 when (1) the information is confidential, (2) the theft is of sufficient scale as to affect the competition in the relevant market as a whole, and (3) the theft will create or maintain monopoly power.[3] None of these conditions is satisfied here. The challenged conduct does not even meet the requirements for a conditional refusal to deal claim, given that (1) Google did not threaten to remove the websites from its search engine and (2) the alleged "victims," not Google, were the ones to terminate their relationship.

Second, the Commission has not previously challenged misappropriation as a standalone violation of Section 5. To do so would be an unwarranted and unprincipled expansion of that statute's reach. The majority offers no explanation of why Section 5 should encompass scraping or of the limits of a standalone Section 5 claim. Members of Congress and the business

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[2] Google's lack of monopoly power in local information and shopping services also casts doubt on a standalone Section 5 count. All of the Commission's recent Section 5 cases (other than invitation to collude cases) have involved firms with monopoly power. *See* Complaint ¶ 3, Intel Corp., FTC File No. 061-0247 (Dec. 16, 2009), *available at* http://www.ftc.gov/os/adjpro/d9341/091216intelcmpt.pdf (alleging that Intel had monopoly power); Complaint ¶ 21, Negotiated Data Solutions LLC, Docket No. C-4234 (Jan 23, 2008), *available at* http://www.ftc.gov/os/caselist/0510094/080122complaint.pdf (alleging monopoly power).

[3] *See, e.g.*, *Taylor Publ'g Co. v. Jostens Inc.*, 216 F.3d 465, 482-83 (5th Cir. 2000) (plaintiff "failed to introduce sufficient evidence to prove that acquisition of information concerning Taylor's manufacturing processes, sales techniques, strategies, and goals would harm the market as a whole rather than a particular competitor"); *Associated Radio Service Co. v. Page Airways, Inc.*, 624 F.2d 1342, 1356 (5th Cir. 1980) (holding that misappropriation of engineering drawings and data, along with various other acts, violated Section 2 because the defendant's conduct had injured competition but cautioning that "[p]robably no one of the instances of improper conduct, standing alone, would lead to section 2 liability"); *Chapdelaine Corporate Sec. & Co. v. Depository Trust & Clearing Corp.*, 2006-2 Trade Cas. (CCH) ¶ 75,361 (S.D.N.Y. 2006) (denying motion to dismiss based on allegation that defendant "misappropriated proprietary information and breached a Non-Disclosure Agreement" because such conduct was alleged to have caused "harm to competition as a whole as well as adverse effects on price, quality, and output of the relevant service").

community have urged the Commission on many occasions not to expand the scope of Section 5 without a clear explanation of the reach of this statute. The lack of any limiting principles is particularly problematic in this case given that remedies already exist for misappropriation under copyright and tort law. *Cf. Verizon Communications v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398, 412 (2004) (counseling against an expansion of the antitrust laws where other legal structures already exist "to deter and remedy anticompetitive harm").

Furthermore, the federal courts have cautioned against the use of Section 5 where that would unsettle settled Section 2 case law. *See Boise Cascade Corp. v. FTC*, 637 F.2d 573, 581-82 (9th Cir. 1980) (rejecting a Section 5 claim when there was "well forged" antitrust case law governing the conduct, lest it "blur the distinction between guilty and innocent commercial behavior"). To the extent a standalone Section 5 claim is based on a refusal to deal or conditional refusal to deal theory, Section 5 cannot be used to evade the requirements of the Supreme Court's *Trinko* decision.

Third, I am aware not aware of any evidence of any actual injury to consumers (whether end users or advertisers) or competition as a result of Google's conduct. This lack of injury conflicts with the Commission's unanimous statement to Congress that in any Section 5 case, there must be "clear harm to the competitive process and to consumers."[4] Furthermore, the Supreme Court has, in an oft-quoted passage, cautioned that the antitrust laws are for "the protection of competition, not competitors." *Brooke Group. Ltd. v. Brown & Williamson Tobacco Corp.*, 509 U.S. 209, 224 (1993) (quoting *Brown Shoe Co. v. United States*, 370 U.S. 294, 320 (1962)); *see also FTC v. Klesner*, 280 U.S. 19, 27-28 (1929) (Section 5 proceedings must be premised on the "protection of the public," not the vindication of private rights). In any event, the investigation revealed that the alleged "victims" of Google's scraping were *not* injured: overall traffic to the alleged victims increased substantially while the alleged scraping was occurring and traffic to these websites from Google grew at an even faster rate.

Any claim that Google's alleged scraping harmed innovation is likewise lacking in factual support. The deficiency of evidence in this regard is not surprising, given the limited scope and duration of Google's alleged scraping.[5] Marketplace developments also cast doubt on the likelihood of harm to innovation. Vertical search engines—including the alleged "victims" of Google's scraping—have continued to thrive and expand, and entry has continued apace since this conduct occurred. Any assumption that there has been harm to innovation, despite all evidence to the contrary, is also in tension with the fair use doctrine, under which the limited use of another's work without permission is not deemed to harm innovation. *See* 17 U.S.C. § 107.

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[4] Prepared Statement of the Federal Trade Commission Before the United States Senate Committee on the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, How the Federal Trade Commission Works to Promote Competition and Benefit Consumers in a Dynamic Economy (June 9, 2010), *available at* http://www.ftc.gov/os/testimony/100609dynamiceconomy.pdf.

[5] The scraping of the two websites supplying local information occurred for about a year. The scraping of the shopping comparison website ended just a few months after that website raised its concerns with Google.

Finally, I am concerned that the majority's apparent position that scraping is a violation of Section 5 of the FTC Act will put the FTC in the position of becoming the enforcer of the copyright laws on the Internet—a task for which it has neither the resources nor expertise, and was surely not envisioned by Congress. As any casual user of the Internet knows, many websites make use of other websites' content; indeed, the business model for many popular websites is based on aggregating or summarizing the content of other websites.[6] As a result of the majority's apparent condemnation of scraping, the legality of these aggregators may be called into question, and the Commission may be inundated with rent-seeking complaints from firms like the alleged "victims" here.

Multihoming Restrictions

Google has also committed to eliminate a particular restriction on the use of its AdWords search advertising platform. Previously, Google's standard licensing terms and conditions for its AdWords application programming interface (API) prevented licensees from using third-party tools that provide a single user interface for managing multiple advertising campaigns. In essence, the restriction prevented an advertiser from using software developed or used by a third party (but not the advertiser itself) to comingle data and simultaneously manage an ad campaign involving both Google and its rivals.[7] This restriction was deemed impermissible on the theory that Google, as a monopolist in search advertising, has a duty to assist its rivals or may not engage in conduct that has the effect of raising its rivals' costs.

As an initial matter, it is important to recognize that Google's API restriction was limited in scope. This was not an exclusive dealing arrangement of the kind condemned in *Microsoft* or *Dentsply*.[8] All Google advertisers were free to continue to use other platforms, including APIs associated with those platforms. In addition, advertisers could develop their own tools to

---

[6] Studies have found that the limited use of other websites' content is a common feature on the Internet and that this practice is responsible for a large and growing part of the growth of the Internet economy. *See, e.g.*, Computer & Communications Industry Association, *Economic Contribution of Industries Relying on Fair Use* (2011), *available at* http://tinyurl.com/7r4yrjy ("Fair use of copyrighted material and other limitations and exceptions are an important foundation of the Internet economy.").

[7] An analogy might be helpful here. Suppose it is the busy Christmas shopping season and shoppers are struggling to carry all of their purchases to their cars, which may be parked some distance away from the mall. As an incentive for its customers to make more purchases, the most popular store at the mall provides golf carts equipped with special shopping baskets to carry purchases from the store to customers' cars. As a condition of using its carts, the store requires that customers agree not to transport merchandise from competing stores on the carts, even though doing so would be costless to the store. The store providing the carts does *not* prohibit its customers from shopping at competing stores while they are at the mall, from accepting similar modes of transportation offered by competing stores, or from loading all of their purchases at the mall into a golf cart (or other vehicle) that they happen to own.

[8] *United States v. Microsoft Corp.*, 253 F.3d 34 (D.C. Cir. 2001); *United States v. Dentsply Int'l*, 399 F.3d 181 (3d Cir. 2005).

manage an ad campaign across different platforms. Larger advertisers, in fact, did this. Also, the restriction did not prevent users from exporting AdWords data onto a rival's platform. This could be done manually or from a rival platform's software, as Google's principal search rival acknowledged.[9]

Second, there is no precedent for this theory of liability. No federal court has ever found liability for similar conduct. The Supreme Court has held that refusals to assist competitors are not illegal under Section 2 except in unusual circumstances. *See Verizon Communications v. Law Offices of Curtis V. Trinko, LLP*, 540 U.S. 398 (2004); *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585 (1985). Following the Supreme Court's decision in *Trinko*, most courts of appeals, including the circuit in which Google is based,[10] require a unilateral termination of a profitable prior course of dealing to establish such a claim. That would not be satisfied here because Google's API restriction has been in place since Google introduced the AdWords API in 2005. Furthermore, the same circuit court has held that the introduction of a new product by a monopolist that improves performance or lowers costs is lawful, even if the product is incompatible with rivals' products. *See Allied Orthopedic Appliances Inc. v. Tyco Health Care Group LP*, 592 F.3d 991, 998-1002 (9th Cir. 2010).

Indeed, our own enforcement guidelines state that the "Agencies will not require the owner of intellectual property to create competition in its own technology." U.S. Dep't of Justice & Fed. Trade Comm'n, Antitrust Guidelines for the Licensing of Intellectual Property § 3.1 (1995); *see also id.* § 2.2 ("Nor does such market power impose on the intellectual property owner an obligation to license the use of that property to others."). The IP Guidelines do state that license agreements may be anticompetitive if they "foreclose access to, or increase competitors' costs of obtaining important inputs." *Id.* § 4.1.2. But neither of these conditions is satisfied here. The first condition—foreclosure—is not met because Google places no contractual restrictions on the use of other advertising networks. The second—raising rivals' costs—is not met because Google's API restriction has no discernible effect on Google's rivals (or advertisers).[11] The lack of competitive injury is not surprising given the modesty of the API restriction.

---

[9] Microsoft, Bing ads, http://advertise.bingads.microsoft.com/en-us/product-help/bingads/topic?query=moonshot_proc_importcampaign.htm ("If you already have campaigns in other online advertising programs, you can move them to Bing Ads. You have two options to do this. You can create an import file and upload it to Bing Ads, or if you are using Google AdWords, you can import directly from your Google AdWords account.").

[10] *LiveUniverse, Inc. v. MySpace, Inc.*, 304 F. App'x 554, 556 (9th Cir. 2008) (unpublished opinion) ("This court has since recognized the narrow scope of the refusal to deal exception, which requires, *inter alia*, 'the unilateral termination of a voluntary and profitable course of dealing.'"); *MetroNet Servs. Corp. v. Qwest Corp.*, 383 F.3d 1124, 1132 (9th Cir. 2004) (observing that liability in *Trinko* was premised on "the unilateral termination of a voluntary and profitable course of dealing").

[11] The vast majority of search engine marketing firms and advertisers stated that Google's API restriction was irrelevant to their advertising platform decision.

Third, Google's justification for the API restriction—ensuring that third-party intermediaries take advantage of the unique features available on AdWords—is supported by numerous documents going back at least six years.[12] It is also noteworthy that Google introduced the restriction in 2005, when its market share was a fraction of its current share. This suggests that there were legitimate business reasons, not an exclusionary purpose, behind the restriction.

Fourth, I am concerned that imposing a duty on monopolists to allow their customers to interoperate and share data with rivals could discourage innovation, particularly in the software industry. *See* Phillip E. Areeda & Herbert Hovenkamp, *Antitrust Law* ¶ 775c (2012) ("Any judicial rule for condemning possibly anticompetitive innovation under the antitrust laws must be formulated so as not to discourage the great majority of innovations that are competitive.").

Finally, insofar as one of the alleged disadvantaged rivals is Microsoft, I have seen no evidence that it lacks the resources to file its own private antitrust action—instead of "free riding" on a government action to achieve the same result.

Settlement Procedure

Instead of following standard Commission procedure and entering into a binding consent agreement to resolve the majority's concerns, Google has instead made non-binding commitments with respect to its search practices. Only two of my colleagues have concluded that these nonbinding promises are an acceptable means of resolving their concerns with Google's search practices.[13] (Commission Statement on Search at 1. n.2.) More importantly, our "settlement" with Google creates very bad precedent and may lead to the impression that well-heeled firms such as Google will receive special treatment at the Commission.

The FTC's Rules of Practice permit settlements to resolve potential violations of the FTC Act. These settlements must be in the form of a *consent order*. FTC Rule 2.31, 16 C.F.R. § 2.31. Consent orders typically include admissions of jurisdictional facts, a waiver of the FTC's

[12] Even the Commissioners expressing "strong concerns" about Google's API restriction apparently recognize the legitimacy of Google's justification, as Google will continue to be able to require that third-party tools used to synchronize advertising campaigns offer certain minimal functionality.

[13] As precedent for their acceptance of Google's non-binding commitments, Chairman Leibowitz and Commissioner Brill point to the FTC's 2001 investigation of the acquisition of Pillsbury by General Mills. That case, however, has no bearing here. In General Mills, the respondents offered *structural relief* that, unlike the *conduct relief* offered by Google, (1) could not be unilaterally reversed by the respondents and (2) did not require ongoing Commission oversight to ensure compliance. Furthermore, even the two Commissioners that found the relief in General Mills acceptable stated that they "strongly preferred that these commitments be memorialized in a formal Commission order, consistent with usual practice." Statement of Commissioners Orson Swindle and Thomas B. Leary, In re General Mills, Inc./Diageo plc/Pillsbury Co., FTC File No. 001-0213 (Oct. 23, 2001), *available at* http://www.ftc.gov/os/2001/10/gmstmtswinleary.htm.

obligation to make findings of fact and conclusions of law, and a waiver of all rights to judicial review or to otherwise challenge the validity of the order. FTC Rule 2.32(a), 16 C.F.R. § 2.32(a). The Department of Justice and the FTC can bring actions in federal court to enforce *FTC orders* and obtain civil penalties of up to $16,000 per day of the violation. 15 U.S.C. § 45(*l*); *see also* 16 C.F.R. § 1.98. Federal courts enforcing *FTC orders* can also "grant mandatory injunctions and such other and further equitable relief as they deem appropriate." 15 U.S.C. § 45(*l*).

Our "settlement" with Google is not in the form of a binding consent order and, as a result, the Commission cannot enforce it by initiating contempt proceedings. The inability to enforce Google's commitments through contempt proceedings is particularly problematic given that the Commission has charged Google with violating a prior FTC consent agreement.[14]

Enforcement of Google's obligations requires a Commission *order*, not a unilateral commitment by Google to stop its practices. If Google were really willing to abandon its scraping or its API policy, it would have tendered a consent decree to that effect instead of a unilateral commitment that is not enforceable. The current settlement's structure is nothing more than a denial of liability in another form.[15] I am not the first to object to this form of "settlement." In the past, the FTC used various informal means of resolving enforcement matters, such as "Assurances of Voluntary Compliance" and "Informal Corrective Actions." However, as a result of well-deserved criticism of these practices by the Nader Commission and the 1969 ABA Commission,[16] the FTC abandoned the use of informal settlement agreements decades ago.

The Commission has, at times, permitted respondents to avoid an enforcement action by terminating the offending conduct, but only when the underlying conduct was promptly corrected upon notice of a possible violation and the risk of a future violation was remote.[17] This

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[14] The FTC charged that Google made misrepresentations to users of Apple's Safari Internet browser, in violation of a settlement it reached with the agency in October 2011. *See* Press Release, Fed. Trade Comm'n, Google Will Pay $22.5 Million to Settle FTC Charges it Misrepresented Privacy Assurances to Users of Apple's Safari Internet Browser (Aug. 9, 2012), *available at* http://www.ftc.gov/opa/2012/08/google.shtm.

[15] At least Google's denial of liability with regard to the Safari settlement was transparent. *See supra*, note 15.

[16] Edward F. Cox et al., *The Nader Report on the Federal Trade Commission* 61 (1969) ("The general decline in formal enforcement at the FTC has been accompanied by greater reliance on 'voluntary' enforcement tools. The FTC rationalizes this as the most efficient means of enforcing the law. Nothing could be further from the truth."); American Bar Association, Commission to Study the FTC, *Report of the ABA Commission to Study the Federal Trade Commission* 26 (1969) ("Absent a program of careful compliance surveillance, coupled with strong sanctions when necessary, the voluntary compliance program cannot be regarded as effective law enforcement.").

[17] *See, e.g.*, Closing letter, Northwest Natural Products – L'il Critters, FTC File No. 092-3153 (Oct. 30, 2009) (closing advertising practices investigation based on the "very limited

exception has no application here because, for the reasons previously stated, Google can resume engaging in its alleged scraping or API restrictions at any time, without penalty.

Conclusion

The Commission's mission is to protect competition and consumers. The proposed "settlement" here will do the opposite. The Commission's acceptance of a commitment letter to resolve an alleged violation of the antitrust laws is an unjustified and dangerous weakening of the Commission's law enforcement authority. Going forward, parties under investigation are likely to demand similar treatment. Failure to do so would imply that Google has received preferential treatment in this investigation.

In addition, the seeking of relief by some of my colleagues for Google's scraping and API restrictions—practices that are legal under the Sherman Act—puts the Commission's standalone Section 5 authority at severe risk. Congress would be unlikely to stand idly by if the Commission continues to challenge conduct under Section 5 without explaining the limiting principles of that authority. The majority's exercise of that authority in this case is particularly problematic and deserving of scrutiny given the utter lack of evidence that Google's actions have harmed consumers or competition—the bare minimum requirements for the use of Section 5.

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duration" of the conduct and the company's "swift and voluntary action" to rectify the conduct); Closing letter, Genelex Corp., FTC File No. 072-3128 (Aug. 14, 2009) (closing advertising practices investigation based on the company's discontinuation of the marketing activities at issue and its "representations that the company has no plans to market [similar products] in the future"); Closing letter, Baby Bee Bright Corp., FTC File No. 082-3018 (Mar. 23, 2009) (closing advertising practices investigation based on "changes made recently" to the company's marketing and representations that future advertising claims will be adequately substantiated); *see also FTC v. Evans Prods. Co.*, 775 F.2d 1084 (9th Cir. 1985) (affirming a denial of preliminary injunctive relief where the offending conduct had completely ceased three years before the complaint was filed and was not likely to recur).

Kelly, Andrea

From: Huber, Susan
Sent: Tuesday, May 21, 2013 9:18 AM
To: 'Harkrider, John D.'; Widnell, Nicholas; Bayer Femenella, Peggy
Cc: 'Steinthal, Russell M.'; 'Barstad, Eric P.'
Subject: RE: Call Tomorrow

John –

3:30 pm eastern today (Tuesday) works for the FTC. We can use this call-in:

Call-In Number: (b)(7)(E)
Pass Code: (b)(3):6(f),(b)(4),(b)(7)(E)

Talk to you then,

Susan

Susan Huber
Federal Trade Commission
202.326.3331

From: Harkrider, John D. [mailto:JDH@avhlaw.com]
Sent: Monday, May 20, 2013 5:14 PM
To: Huber, Susan; Widnell, Nicholas; Bayer Femenella, Peggy
Cc: Steinthal, Russell M.; Barstad, Eric P.
Subject: Call Tomorrow

Please reply to this string – earlier message had the wrong Nick.

Will 3:30pm work?

John D. Harkrider
Partner
Axinn | Veltrop | Harkrider | LLP
114 West 47th Street
New York, New York 10036
(212) 728-2210
jdh@avhlaw.com
www.avhlaw.com

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****

Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Monday, May 20, 2013 5:13 PM
To: Huber, Susan; (b)(6) Bayer Femenella, Peggy
Cc: Steinthal, Russell M.
Subject: Can we talk at 3:30pm?

John D. Harkrider
Partner
Axinn | Veltrop | Harkrider | LLP
114 West 47th Street
New York, New York 10036
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****

Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Tuesday, June 25, 2013 2:32 PM
To: Huber, Susan
Cc: Bayer Femenella, Peggy
Subject: RE: Google

Close enough :-)

"Huber, Susan" <SHUBER@ftc.gov> wrote:

Can't promise cookies but I got you a break-out room.

Susan

Susan Huber
Federal Trade Commission
202.326.3331

-----Original Message-----
From: Harkrider, John D. [mailto:JDH@avhlaw.com]
Sent: Tuesday, June 25, 2013 11:23 AM
To: Huber, Susan
Cc: Bayer Femenella, Peggy
Subject: RE: Google

Hi Susan:

I will be at 601 at 3pm (may come with some other Axinn lawyers).

Google (Matthew Bye and Brian Blasius) are both travelling but will be available by phone so would be great to have a breakout room. (b)(3):6(f),(b)(4),(b)(7)(A)

(b)(3):6(f),(b)(4),(b)(7)(A)

>John D. Harkrider
>Partner
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>114 West 47th Street
>New York, New York 10036
>(212) 728-2210
>jdh@avhlaw.com
>www.avhlaw.com
>

-----Original Message-----
From: Huber, Susan [mailto:SHUBER@ftc.gov]
Sent: Tuesday, June 25, 2013 7:06 AM

To: Harkrider, John D.
Cc: Bayer Femenella, Peggy
Subject: Google

John,

Peggy and I can meet on Thursday at 3:00 but we have a hard stop at 4:30. Can you come to 601?

(b)(3):6(f),(b)(4),(b)(7)(A)

S

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****

From: Huber, Susan
To: "jdh@avhlaw.com"
Cc: Bayer Femenella, Peggy; "rms@avhlaw.com"; Ducore, Daniel P.
Subject: Re: Google Order Modifications
Date: Monday, June 03, 2013 6:21:04 PM

Ok with me. S

From: Harkrider, John D. [mailto:JDH@avhlaw.com]
Sent: Monday, June 03, 2013 06:12 PM
To: Huber, Susan
Cc: Bayer Femenella, Peggy; Steinthal, Russell M. <RMS@avhlaw.com>; Ducore, Daniel P.
Subject: RE: Google Order Modifications

Hi guys:

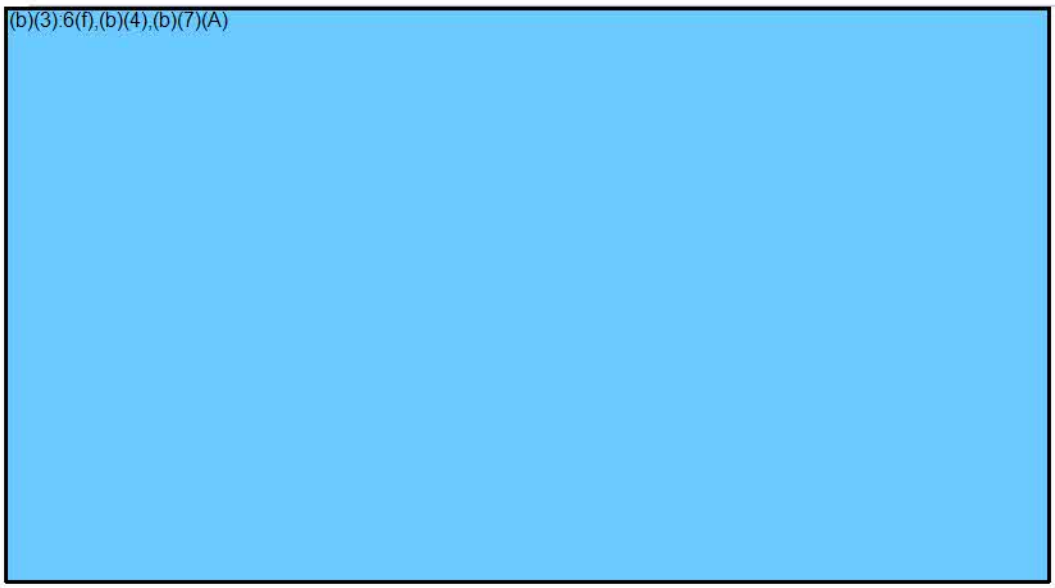
I have a 10:00am on Wednesday that should be over by 10:30. Would that work for you?

John D. Harkrider
Partner
Axinn | Veltrop | Harkrider | LLP
114 West 47th Street
New York, New York 10036
(212) 728-2210
jdh@avhlaw.com
www.avhlaw.com

From: Huber, Susan [mailto:SHUBER@ftc.gov]
Sent: Monday, June 03, 2013 5:22 PM
To: Harkrider, John D.
Cc: Bayer Femenella, Peggy; Steinthal, Russell M.; Ducore, Daniel P.
Subject: Re: Google Order Modifications

Unfortunately I am tied up tomorrow. On Wed Peggy and I could do a call between 8:30 and 11a. On thursday we could do a call between 1 and 4.

Susan



Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Monday, December 10, 2012 5:44 PM
To: Bayer Femenella, Peggy
Subject: Hi

Hey Peggy:

Been trying to reach Nick - any idea when you guys will be available?

Sent from a device

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Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Wednesday, November 28, 2012 5:32 PM
To: Widnell, Nicholas; Bayer Femenella, Peggy
Subject: Meeting Tomorrow?

Importance: High

Is it possible to set up a meeting tomorrow in DC at 3pm to 6pm (b)(3):6(f),(b)(4),(b)(7)(A)

Matthew will be taking a red-eye from MTV so let us know as soon as you can.

John

John D. Harkrider
Partner
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Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Sunday, December 09, 2012 3:30 PM
To: Bayer Femenella, Peggy; Huber, Susan; Ducore, Daniel P.; Widnell, Nicholas; 'alo@google.com'
Cc: Matthew Warren (matthewwarren@quinnemanuel.com); Steinthal, Russell M.
Subject: RE: Google SEP

[plus Russell and Matthew]

Sure.

>John D. Harkrider
>Partner
>Axinn | Veltrop | Harkrider | LLP
>114 West 47th Street
>New York, New York 10036
>(212) 728-2210
>jdh@avhlaw.com
>www.avhlaw.com
>

-----Original Message-----
From: Bayer Femenella, Peggy [mailto:PBAYER@ftc.gov]
Sent: Sunday, December 09, 2012 3:30 PM
To: Harkrider, John D.; Huber, Susan; Ducore, Daniel P.; Widnell, Nicholas; 'alo@google.com'
Subject: Google SEP

Can we talk at 3:45pm?

Here is the call in number:

Call-In Number:

(b)(7)(E) or

Pass Code:

(b)(3):6(f),(b)(4),(b)(7)(E)

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Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Thursday, December 27, 2012 10:29 AM
To: Feinstein, Richard
Cc: Bayer Femenella, Peggy; Widnell, Nicholas; Matthew Bye
Subject: Re: Google SEPs

Sure.

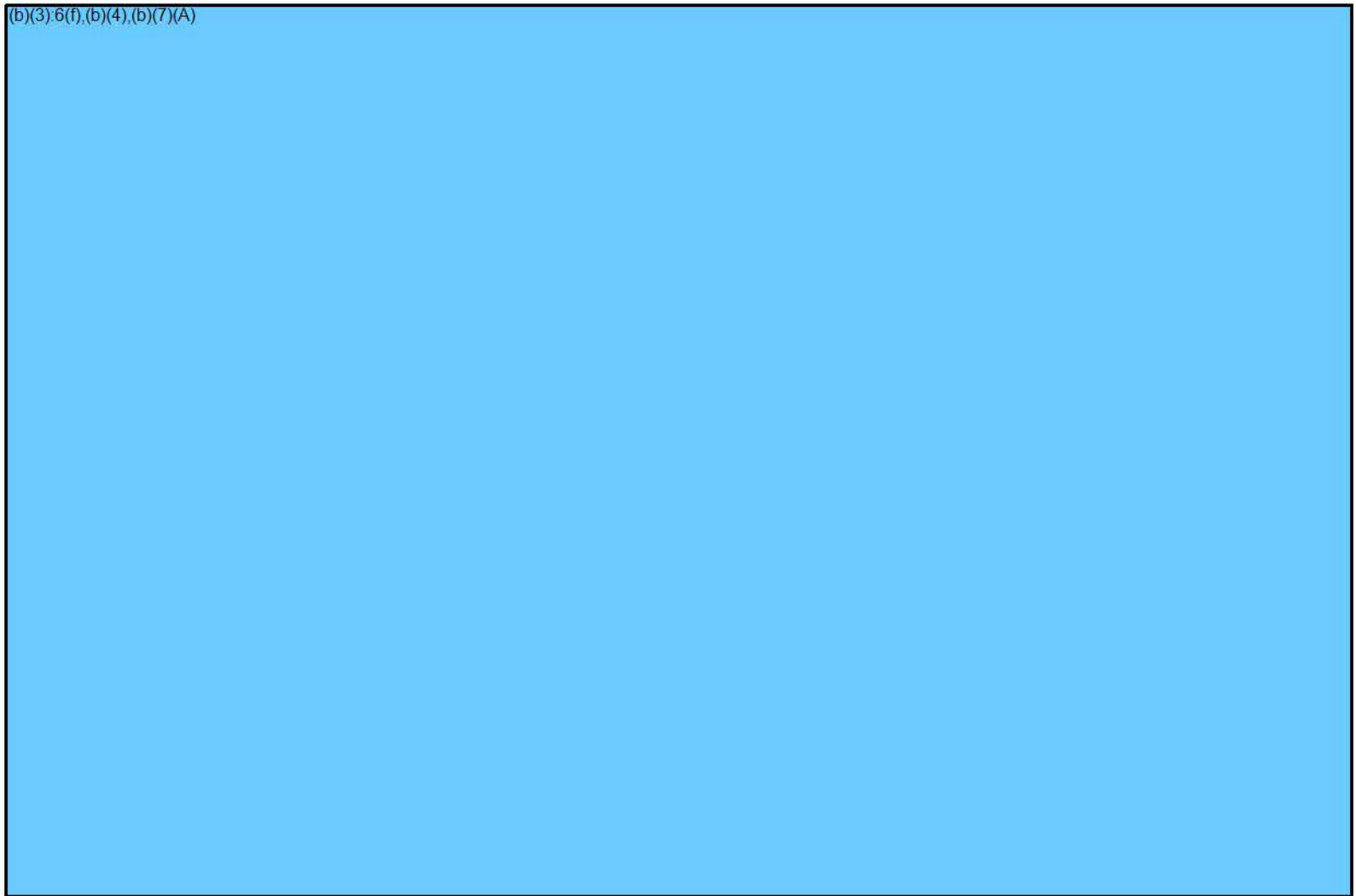
John D. Harkrider
Partner
Axinn | Veltrop | Harkrider | LLP
114 West 47th Street
New York, New York 10036
(212) 728-2210
jdh@avhlaw.com
www.avhlaw.com

On Dec 27, 2012, at 4:27 PM, "Feinstein, Richard" <rfeinstein@ftc.gov> wrote:

> Thanks. Can we use the same dial-in # as yesterday?
>
> -----Original Message-----
> From: Harkrider, John D. [mailto:JDH@avhlaw.com]
> Sent: Thursday, December 27, 2012 10:27 AM
> To: Feinstein, Richard
> Cc: Bayer Femenella, Peggy; Widnell, Nicholas; Matthew Bye
> Subject: Re: Google SEPs
>
> That works for me.
>
> John D. Harkrider
> Partner
> Axinn | Veltrop | Harkrider | LLP
> 114 West 47th Street
> New York, New York 10036
> (212) 728-2210
> jdh@avhlaw.com
> www.avhlaw.com
>
>
> On Dec 27, 2012, at 4:12 PM, "Feinstein, Richard" <rfeinstein@ftc.gov> wrote:
>
>> John--
>> Nick and I would like to touch base with you by phone this afternoon to follow up on yesterday's call. Given our schedules, we propose 3:30 again, if that works for you. Let me know. Thanks.
>> Rich
>>

>> -----Original Message-----
>> From: Harkrider, John D. [mailto:JDH@avhlaw.com]
>> Sent: Wednesday, December 26, 2012 3:23 PM
>> To: Feinstein, Richard
>> Cc: Bayer Femenella, Peggy; Widnell, Nicholas; 'Matthew Bye'
>> Subject: RE: Google SEPs
>>
>> Thanks. Talk with you then.
>>
>>> John D. Harkrider
>>> Partner
>>> Axinn | Veltrop | Harkrider | LLP
>>> 114 West 47th Street
>>> New York, New York 10036
>>> (212) 728-2210
>>> jdh@avhlaw.com
>>> www.avhlaw.com
>>
>> -----Original Message-----
>> From: Feinstein, Richard [mailto:rfeinstein@ftc.gov]
>> Sent: Wednesday, December 26, 2012 3:10 PM
>> To: Harkrider, John D.
>> Cc: Bayer Femenella, Peggy; Widnell, Nicholas; 'Matthew Bye'
>> Subject: RE: Google SEPs
>>
>> 3:30 is fine.
>>

(b)(3):6(f),(b)(4),(b)(7)(A)



>> If 3:30 works, can we use the following dial-in in case others want to join:
>>
>> (b)(7)(E)
>>
>> (b)(3):6 (f),(b)(4),(Participant Passcode
>>
>> If 3:30 does not work, feel free to suggest another time.
>>
>>> John D. Harkrider
>>> Partner
>>> Axinn | Veltrop | Harkrider | LLP
>>> 114 West 47th Street
>>> New York, New York 10036
>>> (212) 728-2210
>>> jdh@avhlaw.com
>>> www.avhlaw.com
>>

(b)(3):6(f),(b)(4),(b)(7)(A)

>>
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>>
>> **********
>>
>>
>> **********
>>
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>>
>> **********
>
> **********
>
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>
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> **********
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****

Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Wednesday, January 09, 2013 9:54 AM
To: Widnell, Nicholas; Bayer Femenella, Peggy
Subject: RE: Google

Sure. Will call you then.

John D. Harkrider
Partner
Axinn | Veltrop | Harkrider | LLP
114 West 47th Street
New York, New York 10036
(212) 728-2210
jdh@avhlaw.com
www.avhlaw.com

From: Widnell, Nicholas [mailto:NWIDNELL@ftc.gov]
Sent: Wednesday, January 09, 2013 9:54 AM
To: Harkrider, John D.; Bayer Femenella, Peggy
Subject: Re: Google

John,

I have a meeting that will likely run until 11:30. Can we talk then?

From: Harkrider, John D. [mailto:JDH@avhlaw.com]
Sent: Wednesday, January 09, 2013 09:43 AM
To: Widnell, Nicholas; Bayer Femenella, Peggy
Subject: Google

Will call to discuss

****

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****

Kelly, Andrea

From: Harkrider, John D. <JDH@avhlaw.com>
Sent: Thursday, December 06, 2012 9:07 PM
To: Widnell, Nicholas; Huber, Susan; Bayer Femenella, Peggy
Subject: RE: New Draft

Sure.

John D. Harkrider
Partner
Axinn | Veltrop | Harkrider | LLP
114 West 47th Street
New York, New York 10036
(212) 728-2210
jdh@avhlaw.com
www.avhlaw.com

From: Widnell, Nicholas [mailto:NWIDNELL@ftc.gov]
Sent: Thursday, December 06, 2012 9:03 PM
To: Harkrider, John D.; Huber, Susan; Bayer Femenella, Peggy
Subject: FW: New Draft

John,

Here is the call in info:

Call-In Number: (b)(7)(E)

Pass Code: (b)(3):6(f), (b)(4) (b)(7)(

Can we do the call at 9:15?

Thanks,
Nick

****

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****

UNREDACTED VERSION

Independent Assessor's Report on Google's Privacy Program

Biennial Assessment Report

For the period April 26, 2012 to April 25, 2014

The contents of this document, including the Report of Independent Accountants, contain PricewaterhouseCoopers LLP proprietary information that shall be protected from disclosure outside of the U.S. Government in accordance with the U.S. Trade Secrets Act and Exemption 4 of the U.S. Freedom of Information Act (FOIA). The document constitutes and reflects work performed or information obtained by PricewaterhouseCoopers LLP, in our capacity as independent assessor for Google Inc. for the purpose of Google Inc.'s Order. The document contains proprietary information, trade secrets and confidential commercial information of our firm and Google Inc. that is privileged and confidential, and we expressly reserve all rights with respect to disclosures to third parties. Accordingly, we request confidential treatment under FOIA, the U.S. Trade Secrets Act or similar laws and regulations when requests are made for the report or information contained therein or any documents created by the FTC containing information derived from the report. We further request that written notice be given to PwC and Google Inc. before distribution of the information in the report (or copies thereof) to others, including other governmental agencies, to afford our firm and Google Inc. with the right to assert objections and defenses to the release of the information as permitted under FOIA or other similar applicable law or regulation, except when such distribution is already required by law or regulation. This report is intended solely for the information and use of the management of Google Inc. and the U.S. Federal Trade Commission and is not intended to be and should not be used by anyone other than these specified parties.

HIGHLY CONFIDENTIAL

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Introduction

Google Inc. ("Google" or the "Company") and the Federal Trade Commission ("FTC") entered into Agreement Containing Consent Order File No: 1023136 (the "Order"), which was served on October 28, 2011.

Part III of the Order requires Google to establish and implement, and thereafter maintain, a comprehensive privacy program that is reasonably designed to (1) address privacy risks related to the development and management of new and existing products and services for consumers, and (2) protect the privacy and confidentiality of covered information.

Part IV of the Order requires Google to obtain initial and biennial assessments and reports ("Assessments") from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. Google engaged PricewaterhouseCoopers LLP ("PwC" or "Assessor") to perform this biennial assessment.

As described on pages 15-19, Google established its privacy program by implementing privacy controls to meet or exceed the protections required by Part III of the Order. As described on pages 11-14, PwC performed inquiry, observation, and inspection/examination procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Part III of the Order during the period April 26, 2012 through April 25, 2014, and our conclusions are on pages 4-5.

(b)(3):6(f),(b)(4)

pwc

Report of Independent Accountants

To the Management of Google Inc.:

We have examined Management's Assertion, that as of and for the two years ended April 25, 2014, and throughout the period August 1, 2013 to April 25, 2014, as it relates to Motorola Mobility LLC's ("Motorola" or "MML") privacy controls (the "Assessment Period"), in accordance with Parts III and IV of the Agreement Containing Consent Order File No: 1023136 (the "Order") with a service date of October 28, 2011, between Google Inc. ("Google" or the "Company") and the Federal Trade Commission ("FTC"), the Company had established and implemented a comprehensive Privacy Program, as described in Management's Assertion (the "Google Privacy Program"), based on Company specific criteria; and the privacy controls were operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the Assessment Period.

The Company's management is responsible for the assertion. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and accordingly, included examining, on a test basis, evidence supporting the effectiveness of the Google Privacy Program as described above and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are not responsible for Google's interpretation of, or compliance with, information security or privacy-related laws, statutes, and regulations applicable to Google in the jurisdictions within which Google operates. We are also not responsible for Google's interpretation of, or compliance with, information security or privacy-related self-regulatory frameworks. Therefore, our examination did not extend to the evaluation of Google's interpretation of or compliance with information security or privacy-related laws, statutes, regulations, and privacy-related self-regulatory frameworks with which Google has committed to comply.

(b)(3):6(f),(b)(4)

In our opinion, Google's privacy controls were operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the Assessment Period, in all material respects as of and for the two years ended April 25, 2014, and throughout the period August 1, 2013 to April 25, 2014, as it relates to Motorola's privacy controls, based upon the Google Privacy Program set forth in Management's Assertion.

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(b)(3):6(f),(b)(4)

This report is intended solely for the information and use of the management of Google and the United States Federal Trade Commission and is not intended to be and should not be used by anyone other than these specified parties.

PricewaterhouseCoopers LLP

San Jose, California
June 23, 2014

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Google's Privacy Program Overview

Company Overview

Google Inc. ("Google" or "the Company") was founded in 1998 by Larry Page and Sergey Brin. It began as a search engine. Since then, Google has grown to become a company offering a variety of services, including Gmail, Google Maps, Google Apps, Blogger, Chrome, Android, YouTube, and Google+, to users around the world.

(b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4) Motorola is a mobile communications organization that invented many of the protocols and technologies that make mobile communications possible. Today, Motorola makes Android smartphones and Bluetooth accessories to keep people connected.

The following description of the Google Privacy Program and references throughout this report to the program and controls apply to both Google and Motorola, unless a distinction is otherwise noted.

Google Privacy Program Overview and Scope

The Google Privacy Program aims to ensure that Google's products and services consistently promote five core privacy principles (the "Privacy Principles"):

1. Use information to provide Google users with valuable products and services;
2. Develop products that reflect strong privacy standards and practices;
3. Make the collection of personal information transparent;
4. Give users meaningful choices to protect their privacy; and
5. Be a responsible steward of the information Google holds.

Google has developed a comprehensive privacy program, which is focused on carrying out the Company's commitment to protecting user privacy.

Google's commitment is reflected in the products and tools that it has built to keep users safe and give them choice and control. The Google Dashboard enables users to change their privacy settings for most Google products from one central location. Google provides all of its users with 2-step verification to protect their accounts from unauthorized access, among other tools. Users can also control the information they share with Google through various privacy controls. For example, Google+ Circles allows users to control what information they share and who can see it, so users can share content such as Google+ posts, YouTube videos or Local listings with the right people.

pwc

Privacy Program Governance and Accountability

The Google Privacy Program includes a cross-functional team from Privacy Engineering, Legal, Product & Engineering, Public Policy, and Communications. The various teams that support the Privacy Program collaborate to protect and improve the privacy of Google users, as well as work to promote compliance with the privacy related laws applicable to Google in the various jurisdictions within which Google operates.

Two central aspects of the Privacy Program are the privacy innovation and protection efforts of the Privacy Engineering Team, and the privacy legal compliance efforts of the Privacy Legal Team.

(b)(3):6(f),(b)(4)

The Privacy Engineering Team works with other engineering and product teams to provide privacy support across the lifecycle of a product.

(b)(3):6(f),(b)(4)

The Privacy Program also ensures the ongoing maintenance of privacy protections through continued work with product teams. For example, on an annual basis, Google product managers and tech leads work with lawyers to complete a comprehensive privacy review of their products as part of the US-EU and US-Swiss Safe Harbor programs. (b)(3):6(f),(b)

(b)(3):6(f),(b)(4)

pwc

In addition to the Privacy Engineering Team, Google's Legal Team serves as an important part of the Privacy Program. Google's Legal Team includes a number of attorneys designated as "Product Area Attorneys" who serve as the primary legal counsel for individual product teams. Product Area Attorneys are responsible for ensuring that products or services comply with relevant legal requirements, including those relating to privacy. In addition, Google's legal department includes a team of lawyers and staff (the "Privacy Legal Team") that provide legal support and advice to Product Area Attorneys as needed. The Privacy Legal Team is also responsible for supporting review of privacy design documentation to identify privacy legal concerns, and to provide legal guidance and support regarding privacy law to other Google teams and employees as appropriate.

While designated employees carry leadership responsibility for coordinating the Privacy Program across the Company, responsibility for privacy permeates most teams at Google. Many employees across teams and functions at Google are responsible for additional aspects of the Privacy Program, including Product & Engineering, Communications, and Public Policy.

Privacy Risk Assessment Process and Program Monitoring

In order to identify the privacy controls that are appropriate to Google's size and complexity, the nature and scope of Google's activities, and the sensitivity of the covered information as defined in the Order, Google has implemented a privacy risk assessment process. This process is focused on identifying reasonably foreseeable, material privacy risks, both internal and external, as well as key privacy controls, including training, product design, development, and research, that help to mitigate these risks. Refer to pages 20-54 below for a list of Google's privacy assertions and controls identified as a result of the privacy risk assessment.

(b)(3):6(f),(b)(4)

pwc

(b)(3):6(f),(b)(4)

pwc

PwC's Privacy Assessment Approach

PwC's Assessment Standards

Part IV of the Order requires that the Assessments be performed by a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. This report was issued by PwC under professional standards that meet these requirements.

As a public accounting firm, PwC must comply with the public accounting profession's technical and ethical standards, which are enforced through various mechanisms created by the American Institute of Certified Public Accountants ("AICPA"). Membership in the AICPA requires adherence to the Institute's Code of Professional Conduct. The AICPA's Code of Professional Conduct and its enforcement are designed to ensure that CPAs who are members of the AICPA accept and achieve a high level of responsibility to the public, clients, and colleagues. The AICPA Professional Standards provide the discipline and rigor required to ensure engagements performed by CPAs consistently follow specific General Standards, Standards of Fieldwork, and Standards of Reporting ("Standards").

In order to accept and perform this FTC assessment ("engagement"), the Standards state that PwC, as a practitioner, must meet specific requirements, such as the following.

General Standards:

- Have reason to believe that the subject matter is capable of evaluation against criteria that are suitable and available to users. Suitable criteria must be free from bias (objective), permit reasonably consistent measurements, qualitative or quantitative, of subject matter (measurable), be sufficiently complete so that those relevant factors that would alter a conclusion about subject matter are not omitted (complete), and be relevant to the subject matter;
- Have adequate technical training and proficiency to perform the engagement;
- Have adequate knowledge of the subject matter; and
- Exercise due professional care in planning and performance of the engagement and the preparation of the report.

Standards of Fieldwork:

- Adequately plan the work and properly supervise any assistants; and
- Obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report.

Standards of Reporting:

- Identify the assertion being reported on in the report; and
- State the practitioner's conclusion about the assertion in relation to the criteria.

In performing this assessment, PwC complied with all of these Standards.

pwc

Independence

The Standards also require us to maintain independence in the performance of professional services. Independence requirements fall into five categories: personal financial interests; business relationships; employment relationships; prohibited services; prohibition from serving in the Company's management capacity; and independence in mental attitude. In summary, relevant individuals must not have personal financial interests in the Company; the Company and the Assessor may not have certain business relationships; there are restrictions on relationships that may exist between employees performing the assessment and employees at the Company or formerly at the Company or at the Assessor firm; there are numerous services that cannot be provided by the Assessor to the Company; and the Assessor may not act in a management capacity or make any decisions for the Company.

Further, the Standards require us to maintain independence in mental attitude in all matters relating to the engagement. Independence in mental attitude means there is an objective consideration of facts, unbiased judgments, and honest neutrality on the part of the practitioner in forming and expressing conclusions. We are required to maintain intellectual honesty and impartiality necessary to reach an objective and unbiased conclusion.

PwC is independent with respect to the Standards required for this engagement.

PwC Assessor Qualifications

(b)(3):6(f),(b)(4)

PwC Assessment Process Overview

The procedures performed by PwC were designed to:

pwc

- Assess the applicability of the safeguards selected by the Company to address the Company's obligations within the Order;
- Assess the design effectiveness of the safeguards implemented by the Company to address the relevant risks; and
- Assess the operating effectiveness of the implemented safeguards for the Assessment Period.

To evaluate Google's privacy risk assessment process and the design and implementation of controls to mitigate the risks identified from the privacy risk assessment, PwC designed and performed the following procedures.

(b)(3):6(f),(b)(4)

In addition, PwC designed and performed procedures to evaluate the operating effectiveness of the control activities implemented by Google for the Assessment Period.

(b)(3):6(f),(b)(4)

Refer below for a description of the test procedures utilized by PwC to assess the design and effectiveness of Google's privacy controls. Detailed test plans for each control tested are also included on pages 20-54 of this document.

Inquiry: To understand the design of the safeguards implemented and how they operate to meet or exceed the protections required by Part III of the Order (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

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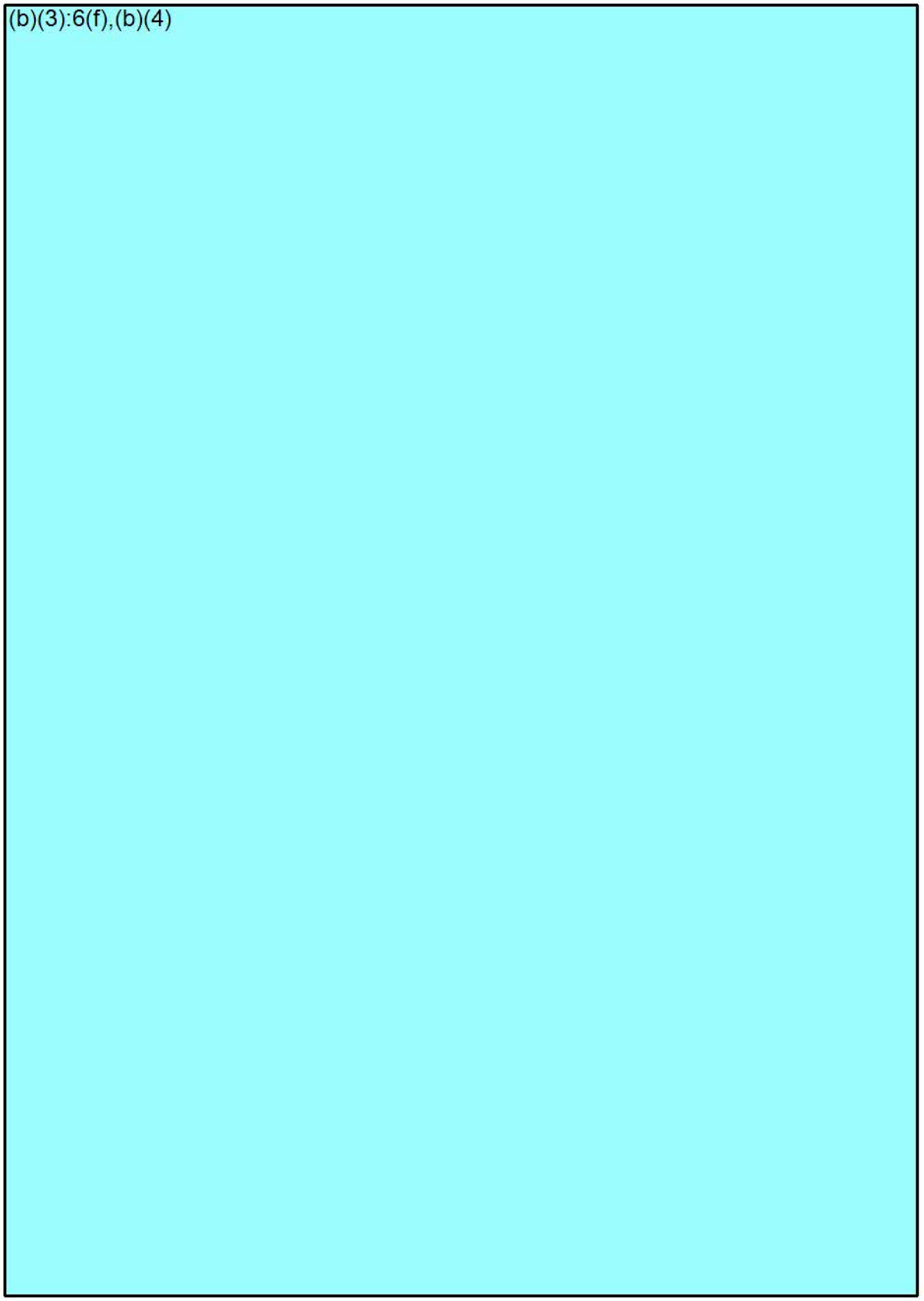

(b)(3):6(f),(b)(4)

As described earlier in the report, the Google Privacy Program is based upon the management defined criteria, and is structured by assertions supported by controls to meet the stated assertions. (b)(3):6(f), (b)(4)

(b)(3):6(f),(b)(4)

pwc

PwC's Assessment of Part IV A, B, C, D of the Order

The tables in section "The Google Privacy Program: Assertions, Control Activities and PwC's Tests Performed and Results" of this report describe the scope of the Google Privacy Program referenced in the Management Assertion on pages 55-56. Google established its privacy program by implementing privacy controls to meet or exceed the protections required by Part III of the Order. The table also includes PwC's inquiry, observation, and inspection/examination test procedures to assess the effectiveness of the Google Privacy Program and test results. PwC's final conclusions are detailed on pages 4-5 of this document.

A. Set forth the specific privacy controls that respondent has implemented and maintained during the reporting period.

As depicted within the table on pages 20-54, Google has listed the privacy controls that were implemented and maintained during the Assessment Period. The table includes PwC's test procedures to assess the effectiveness of each safeguard as well as the results of such tests.

B. Explain how such privacy controls are appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the covered information.

As described in Google's Privacy Program Overview section above, based on the size and complexity of the organization, the nature and scope of Google's activities, and the sensitivity of the covered information (as defined by the Order), Google management developed the Company specific criteria (assertions) detailed on pages 20-54 as the basis for its privacy program. The management assertions and the related control activities are intended to be implemented to address the risks identified by Google's privacy risk assessment.

To evaluate Google's privacy risk assessment process and the design and implementation of controls to mitigate the risks identified from the risk assessment, PwC designed and performed the following procedures.

(b)(3):6(f),(b)(4)

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(b)(3):6(f),(b)(4)

C. Explain how the privacy controls that have been implemented meet or exceed the protections required by Part III of the Order.

As summarized in the Google Privacy Program Overview on pages 6-9, Google has implemented the following protections to meet or exceed the protections required by Part III of the Order. The table on pages 20-54 includes the full list of Google's privacy controls, which have been implemented and maintained by Google to meet or exceed the protections required by Part III of the Order. The following paragraphs describe how the controls meet or exceed the protections required by Part III of the Order:

A. Designation of an employee or employees to coordinate and be responsible for the privacy program.

As described above, Google has designated a team of employees to coordinate and be responsible for the privacy program as required by Part III of the Order. As described on pages 10-14, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Part III of the Order.

The Google Privacy Program includes a cross-functional team from Privacy Engineering, Legal, Product & Engineering, Public Policy, and Communications. The various teams that support the Privacy Program collaborate to protect and improve the privacy of Google users, as well as work to promote compliance with the privacy related laws applicable to Google in the various jurisdictions within which Google operates.

Two central aspects of the privacy program are the privacy innovation and protection efforts of the Privacy Engineering team, and the privacy legal compliance efforts of the Privacy Legal Team.

(b)(3):6(f),(b)(4)

In addition to the Privacy Engineering Team, Google's Legal Team serves as an important part of the privacy program. Google's Legal Team includes a number of attorneys designated as "Product Area Attorneys" who serve as the primary legal counsel for individual product teams. Product Area Attorneys are responsible for ensuring that products or services comply with relevant legal requirements, including those relating to privacy. In addition, Google's legal department includes a team of lawyers and staff (the "Privacy Legal Team") that provide legal support and

advice to Product Area Attorneys as needed. The Privacy Legal Team is also responsible for supporting review of privacy design documentation to identify privacy legal concerns, and to provide legal guidance and support regarding privacy law to other Google teams and employees as appropriate.

While designated employees carry leadership responsibility for coordinating the privacy program across the Company, responsibility for privacy permeates most teams at Google. Many employees across teams and functions at Google are responsible for additional aspects of the Privacy Program, including Product & Engineering, Communications, and Public Policy.

B. The identification of reasonably foreseeable, material risks, both internal and external, that could result in Respondent's unauthorized collection, use, or disclosure of covered information and an assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this privacy risk assessment should include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management, including training on the requirements of this order, and (2) product design, development, and research.

As described in the Google Privacy Program description above, Google has identified reasonably foreseeable, material risks, both internal and external, that could result in Google's unauthorized collection, use, or disclosure of covered information, and assessed the sufficiency of any safeguards in place to control these risks as required by Part III of the Order. As described on pages 10-14, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Part III of the Order.

In order to identify the privacy controls that are appropriate to Google's size and complexity, the nature and scope of Google's activities, and the sensitivity of the covered information as defined in the Order, Google has implemented a privacy risk assessment process. This process is focused on identifying reasonably foreseeable, material privacy risks, both internal and external, as well as key privacy controls, including training, product design, development, and research, that help to mitigate these risks. Refer to pages 20-54 below for a list of Google's privacy assertions and controls identified as a result of the privacy risk assessment.

(b)(3):6(f),(b)(4)

pwc

(b)(3):6(f),(b)(4)

C. The design and implementation of reasonable controls and procedures to address the risks identified through the privacy risk assessment, and regular testing or monitoring of the effectiveness of those controls and procedures.

As described above, Google has designed and implemented reasonable controls and procedures to address the risks identified through the privacy risk assessment, and regular testing or monitoring of the effectiveness of those controls and procedures as required by Part III of the Order.

Design & Implementation of Controls
Based on the risks identified through the risk assessment described in B. above, Google designed and implemented the privacy controls documented in the table on pages 20-54.

Regular Testing & Monitoring of Safeguards
(b)(3):6(f),(b)(4)

The table on pages 20-54 also describes PwC's assessment of the controls the Company has identified and maintained to monitor the Google Privacy Program.

D. The development and use of reasonable steps to select and retain service providers capable of appropriately protecting the privacy of covered information they receive from Respondent and requiring service providers, by contract, to implement and maintain appropriate privacy protections.

Google has developed and implemented reasonable steps to select and retain service providers capable of appropriately protecting the privacy of covered information they receive from Google as required by Part III of the Order. (b)(3):6(f),(b)(4)
(b)(3):6(f),(b)(4)

pwc

(b)(3):6(f),(b)(4)

As described on pages 20-54, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Part III of the Order.

E. The evaluation and adjustment of Respondent's privacy program in light of the results of the testing and monitoring required by subpart C, any material changes to Respondent's operations or business arrangements, or any other circumstances that Respondent knows or has reason to know may have a material impact on the effectiveness of its privacy program.

As described above, as part of Google's ongoing privacy risk assessment processes, Google considers internal and external risks, existing privacy controls, risks in product design, development and research, changes in the regulatory environment, and the impact of any changes to Google's business operations or business arrangements.

(b)(3):6(f),(b)(4)

As described on pages 11-14, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Part III of the Order.

D. Certify that the privacy controls are operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the reporting period.

As described in PwC's Privacy Assessment Approach section above, PwC performed its assessment of the Google Privacy Program in accordance with AICPA's Professional Standards. Refer to pages 4-5 of this document for PwC's conclusions.

pwc

The Google Privacy Program: Assertions, Control Activities and PwC's Tests Performed and Results

Provided below are the Google Privacy Program assertions, control activities, and PwC's tests performed. Also provided are the results of the testing performed by PwC. Finally, additional information has been provided by PwC for the instances in which PwC identified an exception during testing. This information is provided in an effort to enhance the FTC's understanding of the exception.

Ref	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
Assertion 1 –Google has implemented and maintains a comprehensive privacy program, which is documented in written policies and procedures.				
1.1-G	The Google Privacy Program is documented in written policies.	(b)(3):6(f),(b)(4)		
1.1-M	The MML privacy controls are documented in written policies			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
1.2-G	The Google Privacy Program is periodically reviewed for appropriateness.			
1.2-M	The MML privacy controls are periodically reviewed for appropriateness.			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
1.3-G	Internal Google privacy policies are periodically reviewed and updated as necessary.			
1.3-M	Internal MML privacy policies are periodically reviewed and updated as necessary.			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
Assertion 2 - Google has designated specific employees as officials responsible for the Google Privacy Program.				
2.1-G	Privacy roles and responsibilities of employees and groups that play a part in privacy at Google are defined and published.	(b)(3):6(f),(b)(4)		
2.1-M	Privacy roles and responsibilities of employees and groups that play a part in privacy at MML are defined and published.			
2.2-G	Google maintains an online privacy organizational chart and communication model.			
2.2-M	MML maintains an online privacy organizational chart and communication model.			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
2.3-G	A working group of privacy subject matter experts, (b)(3):6(f),(b)(4) (b)(3): provides oversight of privacy topics at Google.	(b)(3):6(f),(b)(4)		
2.3-M	A working group of privacy subject matter experts, (b)(3):6(f),(b)(4) (b)(3): provides oversight of privacy topics at MML.			
Assertion 3 - Google has implemente internal and external, as well as key pri help to mitigate these risks.				
3.1-G	The Google privacy team conducts periodic risk assessments to: • Identify external and internal risks; • Assess existing privacy controls including privacy training to Googlers;			

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	• Assess risks in (b)(3):6(f),(b)(4) • Consider changes in the regulatory environment; and • Consider the impact of any changes to Google operations or business arrangements (e.g., acquisitions, divestitures).	(b)(3):6(f),(b)(4)		

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
3.1-M	The MML privacy team conducts periodic risk assessments to: • Identify external and internal risks; • Assess existing privacy controls including privacy training to new hires; • Assess risks in (b)(3):6(f),(b)(4) • Consider changes in the regulatory environment; and • Consider the impact of any changes to MML operations or business			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	arrangements (e.g., acquisitions, divestitures).	(b)(3):6(f),(b)(4)		
3.2-G	The Google privacy team reviews the Risk Assessment results, and identifies opportunities to further reduce or mitigate risk.			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
3.2-M	The MML privacy team reviews the Risk Assessment results, and identifies opportunities to further reduce or mitigate risk.	(b)(3):6(f),(b)(4)		
3.3-G	Risk Assessment results are communicated to Google management in a timely manner.			
3.3-M	Risk Assessment results are communicated to MML management in a timely manner.			
Assertion 4 - On an ongoing basis, Google implements reasonable privacy controls and procedures to address identified privacy risks.				
4.1-G	(b)(3):6(f),(b)(4)			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
4.1-M	(b)(3):6(f),(b)(4)	(b)(3):6(f),(b)(4)		
4.2-G	Google facilitates transparency and choice by providing end-user privacy settings which include: • Dashboards (Account Dashboard, Transparency Report); • Security Tools (2-Step Verification, Recent Activity, Account Permissions, SSL); • Account Management and Social Settings; • Ad Settings; • Me on the Web; • Incognito Mode; • Inactivity Mode; and • Takeout.	(b)(3):6(f),(b)(4)		

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
4.2-M	MML facilitates transparency & choice by providing end-user privacy settings on new products (b)(3):6(f),(b)(4) • Cookie control tool; • Global opt-out tool (outout.motorola.com) for marketing email; and • privacy@motorola.com.	(b)(3):6(f),(b)(4)		
4.3-G	(b)(3):6(f),(b)(4)			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
4.4-G	The Google Privacy Team provides periodic supplemental training and awareness programs (b)(3):6(f),(b)(4)	(b)(3):6(f),(b)(4)		
4.4-M	The MML Privacy Team provides periodic supplemental training and awareness programs (b)(3):6(f),(b)(4)			
4.5-G	Google employees are required to complete training that includes Google privacy policies and practices (b)(3):6 (b)(3):6(f),(b)(4)			

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
4.5-M	MML employees are required to complete training that includes MML privacy policies and practices (b)(3):6(f),(b)(4)	(b)(3):6(f),(b)(4)		

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
4.6-G	Foundational privacy training is required of new Google engineers (b)((b)(3):6(f),(b)(4)			
4.7-G	(b)(3):6(f),(b)(4)			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
4.7-M	(b)(3):6(f),(b)(4)			
4.8-G				
4.8-M				

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
4.9-G				
4.9-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
4.10-G				
4.10-M				
4.11-G				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
4.11-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
4.12-G	(b)(3):6(f),(b)(4)			
4.12-M				

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
4.13-G	(b)(3):6(f),(b)(4)			
4.13-M				
4.14-G				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
4.14-M	(b)(3):6(f),(b)(4)	(b)(3):6(f),(b)(4)		
4.15-G	(b)(3):6(f),(b)(4)			
4.15-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	materials explaining its policies.	(b)(3):6(f),(b)(4)		
Assertion 5 - Google regularly tests or monitors the effectiveness of the privacy controls.				
5.1-G		(b)(3):6(f),(b)(4)		
5.1-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)	(b)(3):6(f),(b)(4)		
5.2-G				
5.2-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
5.3-G				
5.3-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
5.4-G	Management reviews and confirms the completion of the Safe Harbor process for Google.			
5.4-M	European Binding Corporate Rules (BCRs) are in place at MML as a trans-border dataflow compliance mechanism.			
Assertion 6 - Google has developed an appropriately protecting and maintainir				
6.1-G	(b)(3):6(f),(b)(4)			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
6.1-M	(b)(3):6(f),(b)(4)			
6.2-G				
6.2-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
6.3-G				
6.3-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
6.4-G	(b)(3):6(f),(b)(4)			
6.4-M				
Assertion 7 - The Google Privacy Program is regularly evaluated and adjusted over time in light of the results of testing and monitoring, any material changes to Google's operations or business arrangements, or any other circumstances that Google knows may have a material impact on the effectiveness of the Google Privacy Program.				
7.1-G	The Google privacy team conducts periodic risk assessments to: Identify external and	(b)(3):6(f),(b)(4)		

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	internal risks; • Assess existing privacy controls including privacy training to Googlers; • Assess risks in (b)(3):6(f),(b)(4) • Consider changes in the regulatory environment; and • Consider the impact of any changes to Google operations or business arrangements (e.g., acquisitions, divestitures).	(b)(3):6(f),(b)(4)		

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
		(b)(3):6(f),(b)(4)		
7.1-M	The MML privacy team conducts periodic risk assessments to: Identify external and internal risks; • Assess existing privacy controls including privacy training to new hires; • Assess risks in (b)(3) (b)(3):6(f),(b)(4) • Consider changes in	(b)(3):6(f),(b)(4)		

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	the regulatory environment; and • Consider the impact of any changes to MML operations or business arrangements (e.g., acquisitions, divestitures).	(b)(3):6(f),(b)(4)		
7.2-G	(b)(3):6(f),(b)(4)			

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
7.2-M				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
7.3-G	(b)(3):6(f),(b)(4)			
7.3-M				
7.4-G				

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
	(b)(3):6(f),(b)(4)			
7.4-M				
7.5-G				

pwc

Ref.	Google's Control Activity	PwC's Tests Performed	PwC's Test Results	Additional Information
7.5-M	(b)(3):6(f),(b)(4)			

Google

Management's Assertion

The management of Google Inc. ("Google" or the "Company") represents that as of and for the two years ended April 25, 2014, and throughout the period August 1, 2013 to April 25, 2014 as it relates to Motorola Mobility LLC's ("Motorola" or "MML") privacy controls (the "Assessment Period"), in accordance with Parts III and IV of the Agreement Containing Consent Order File No: 1023136 (the "Order"), with a service date of October 28, 2011, between Google and the Federal Trade Commission ("FTC"), the Company had established and implemented a comprehensive Privacy Program, (the "Google Privacy Program"), based on Company specific criteria (described in paragraph four of this assertion); and the privacy controls were operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the Assessment Period.

(b)(3):6(f),(b)(4)

Furthermore, the Company represents that for the Assessment Period, the privacy controls within the Google Privacy Program as described on pages 20-54 are appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the covered information.

The Company specific criteria ("management assertions") used as the basis for the Google Privacy Program are described below. The below management assertions have corresponding controls on pages 20-54.

Assertion #1: Google has implemented and maintains a comprehensive privacy program, which is documented in written policies and procedures.

Assertion #2: Google has designated specific employees as officials responsible for the Google Privacy Program.

Assertion #3: Google has implemented a privacy risk assessment process in order to identify reasonably foreseeable, material risks, both internal and external, as well as key privacy controls within processes including training, product design, development, and research that help to mitigate these risks.

Assertion #4: On an ongoing basis, Google implements reasonable privacy controls and procedures to address identified privacy risks.

Assertion #5: Google regularly tests or monitors the effectiveness of the privacy controls.

Assertion #6: Google has developed and implemented reasonable steps to select and contract with service providers capable of appropriately protecting and maintaining the privacy of covered information received from Google.

Google

Assertion #7: The Google Privacy Program is regularly evaluated and adjusted over time in light of the results of testing and monitoring, any material changes to Google's operations or business arrangements, or any other circumstances that Google knows may have a material impact on the effectiveness of the Google Privacy Program.

Google Inc.

By: _____

Keith Enright

Sr. Privacy Counsel

Google Inc.

By: _____

Lawrence You

Director of Privacy, Product and Engineering

Google Inc.

pwc

Appendix A – Assessment Interviews Summary

The following Google individuals were interviewed by PwC and/or provided evidence to support the above Assessment procedures.

Title	Team
(b)(3):6(f),(b)(4)	

Google Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043

Google™

Main 650 253.0000
Fax 650 253.0001
www.google.com

May 18, 2012

Via Certified Mail

Associate Director,
Division of Enforcement, Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Re: In the Matter of Google Inc., FTC Docket No. C-4336

To the Associate Director of Enforcement:

(b)(3):6(f),(b)(4)

Sincerely,

Keith Enright
Senior Privacy Counsel
Google Inc.

Printed on 100% post-consumer waste recycled paper

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EMAIL: lsotto@hunton.com

July 2, 2014

VIA EMAIL AND OVERNIGHT MAIL

James A. Kohm, Esq.
Associate Director
Division of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: In the Matter of Google Inc., FTC Docket No. C-4336
Biennial Assessment Report on Google Inc.'s Privacy Program

Dear Mr. Kohm:

Google Inc. ("Google") herewith submits its Biennial Assessment Report on Google's Privacy Program ("Assessment Report") in connection with the Decision and Order, Docket No. C-4336, issued by the Federal Trade Commission ("Commission"). The Assessment Report contains highly confidential and sensitive information regarding the design of Google's privacy program that is proprietary to Google. Public disclosure of this otherwise non-public information likely would result in substantial competitive harm and harm to Google's customers.

Google therefore requests that the Commission keep the designated portions of this Assessment Report confidential consistent with the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(7), (c); the relevant provisions of the Federal Trade Commission Act, 15 U.S.C. §§ 46(f), 57b-2(a-f); the relevant exemptions in the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552(b)(3), (4) and (7); and all other applicable statutes and regulations. In the event any third party seeks disclosure of or access to these materials, whether under FOIA or otherwise, Google requests to be timely notified by your office and given an opportunity to object to any such disclosure or grant of access, consistent with the Federal Trade Commission Act and the Commission's Rules of Practice. 15 U.S.C. § 57b-2(c); 16 C.F.R. §4.9(c)(1); 16 C.F.R. § 4.10(e). Furthermore, in the event your office discloses the Assessment Report to any third party, Google requests that you advise such third party of its highly confidential nature.

Accordingly, Google is submitting two versions of the Assessment Report: one version that appears in its entirety and another version that is redacted. Confidential portions of the redacted version are replaced with the word "redacted."

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Lisa J. Sotto

Enclosures

cc: Robin L. Moore, Esq. (w/enc.)
Keith Enright, Esq. (w/enc.)
Liz Eraker Palley, Esq. (w/enc.)

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July 3, 2012

Associate Director of Enforcement
Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580

Re: In the Matter of Google Inc., F.T.C. Docket No. C-4336; Confidentiality Request for Initial Assessment Report on Google Inc.'s Privacy Program

Dear Associate Director of Enforcement:

Google Inc. ("Google") requests that the Commission keep confidential the designated portions of the Initial Assessment Report on Google's Privacy Program ("Assessment Report").

Commission rules permit "[p]ersons submitting material to the Commission described in this section" to "designate that material or portions of it [are] confidential and request that it be withheld from the public record." 16 C.F.R. § 4.9(c)(1). Sufficient evidence to grant a request for confidential treatment includes a showing that Google is likely to suffer substantial competitive harm, which can be demonstrated by showing that Google is (1) engaged in competition, (2) disclosure of the Assessment Report would result in a likelihood of substantial injury that (3) flows from a competitor's affirmative use of proprietary information. *See Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1288 (D.C. Cir. 1983) (describing required showing to demonstrate confidential treatment under the Freedom of Information Act, 5 U.S.C. § 552(b)(4)); *Gulf & W. Indus. v. United States*, 615 F.2d 527 (D.C. Cir. 1980); *Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974); *see also Gilda Indus. v. U.S. Customs & Border Protection Bureau*, 457 F. Supp. 2d 6, 9 (D.D.C. 2006).

This standard is met here. Google is engaged in competition. Much of the report describes the steps taken by Google to protect the privacy and confidentiality of user information and Google's internal procedures to do so. Disclosure of these steps and procedures necessarily compromises that goal, as well as causing commercial harm to Google and potentially its users. The Assessment Report contains detailed confidential and proprietary information regarding the design of Google's privacy program, including its impact on the development and review of products and services; the manner in which personal information is maintained within Google;

and related business processes. If disclosed, this otherwise non-public information could be easily used and exploited in an unfair manner by various competitors in the Internet service provider business seeking to harm Google commercially. Indeed, at least one of Google's fiercest competitors is subject to a similar consent decree requirement and the design of Google's privacy program is therefore competitively sensitive.

(b)(3):6(f),(b)(4)

Google therefore requests that the Commission keep the designated portions of this Assessment Report confidential consistent with the Commission Rules, 16 C.F.R. § 4.9(b)(7), (c); the relevant provisions of the FTC Act, 15 U.S.C. §§ 46(f), 57b-2(a-f); FOIA exemptions three, four, and seven, 5 U.S.C. § 552(b)(3), (4), and (7); and all other applicable statutes, regulations, and customary confidentiality policies. Section 21(c)(1) of the FTC Act, 15 U.S.C. § 57b-2(c)(1), prohibits the Commission from disclosing information marked confidential except in accordance with Sections 21(c)(2) and (3); *see also* 15 U.S.C. § 57-b(2)(c)(2) (requiring the Commission to "notify such person in writing that the Commission intends to disclose the document at a date not less than 10 days after the date of receipt of the notification"); 15 U.S.C. § 57-b(2)(c)(3) (permitting a person to bring an action in United States District Court to restrain disclosure of materials pursuant to Section 21(c)(2)). In the event any third party (including any other governmental agency or body) seeks disclosure of, or access to, these materials, whether under FOIA or another context, Google requests to be timely notified by your office and given an opportunity to object to any such disclosure or grant of access, consistent with the FTC Act and Commission Rules. 15 U.S.C. § 57-b2(c); 16 CFR § 4.9(c)(1); 16 CFR § 4.10(e). Furthermore, in the event that your office discloses the Assessment Report to any third party, Google requests that you advise such third party of its highly confidential nature.

Consistent with the Enforcement Bureau Instructions regarding the submission of confidential and proprietary trade secret business information, Google has submitted two copies of the Assessment Report: one copy in its entirety, and another "redacted" copy in which the confidential portions are redacted and replaced with the word 'redacted,' thereby preserving the original formatting of the document. *See* Letter from Katherine Robinson, Federal Trade Commission Enforcement Bureau, *In the Matter of Google Inc.*, FTC Docket No. C-4336 (Nov. 28, 2011) ("Enforcement Bureau Instructions").

Very truly yours,

Al Gidari /JRT

Albert Gidari

AG:JRT

pwc

Initial Assessment Report
on
Google's Privacy Program

For the period October 29, 2011 - April 25, 2012

FOIA -- Confidential Treatment Requested. The contents of this document contain PwC Proprietary Information that shall be protected from disclosure outside of the Government in accordance with the U.S. Trade Secrets Act, the U.S. Freedom of Information Act and/or any other similar laws. This report is intended solely for the information and use of the management of Google and the United States Federal Trade Commission and is not intended to be and should not be used by anyone other than these specified parties.

pwc

Google Inc. ("the Company") has implemented and maintains a comprehensive Privacy Program, which is documented in written policies and procedures. Google has designated specific officials as responsible for the Privacy Program. On October 22, 2010, Dr. Alan Eustace, Senior Vice President of Engineering announced the appointment of Dr. Alma Whitten as the Director of Privacy across Engineering and Product Management. Dr. Whitten and her team lead Google's implementation of effective privacy controls in Google products and services. In his announcement, Dr. Eustace also noted that Google would enhance privacy training for engineers and other groups and that Technical Leads ("Tech Leads") would be "required to maintain a Privacy Design Document ("PDD") for each initiative they are working on."

In addition to the work of Dr. Whitten's team, Google's legal team serves as an important part of the Privacy Program. Google's legal team includes a number of attorneys designated as "Product Area Attorneys" who serve as the primary legal counsel for individual product or service teams. Product Area Attorneys are responsible first and foremost for ensuring that any product or service complies with relevant legal requirements, including those relating to privacy. In addition, Google's legal department now includes a team of lawyers and staff (the "Privacy Legal Team") that provide legal support and advice to Product Area Attorneys as needed. The Privacy Legal Team is also responsible for supporting review of Privacy Design Documents to identify privacy legal concerns, and to provide legal guidance and support regarding privacy law to other Google teams and employees as appropriate.

While designated employees carry leadership responsibility for coordinating the Privacy Programs across the organization, responsibility for privacy is in no way limited to any individual team. Many employees across teams and functions at Google are responsible for the Privacy Program in various respects.

The Privacy Program has a number of components and teams, collaborating to protect and improve the privacy of Google users, as well as working to promote compliance with the privacy related laws applicable to Google in the many jurisdictions within which Google operates. Two central aspects of the Privacy Program are the privacy innovation and protection efforts of the Product and Engineering team, and the privacy legal compliance efforts of the Privacy Legal team.

The Privacy Program aims to ensure that Google's products and services consistently promote five core privacy principles (the "Privacy Principles"):

1. Use information to provide Google users with valuable products and services;
2. Develop products that reflect strong privacy standards and practices;
3. Make the collection of personal information transparent;

FOIA -- Confidential Treatment Requested. Use or disclosure of data contained on this page is subject to the restriction on the Report of Independent Accountants' page (page 15) of this document. This report is intended solely for the information and use of the management of Google and the United States Federal Trade Commission and is not intended to be and should not be used by anyone other than these specified parties.

pwc

4. Give users meaningful choices to protect their privacy; and
5. Be a responsible steward of the information Google holds.

PwC Assessor Qualifications

Section IV of the Federal Trade Commission ("FTC") Agreement Containing Consent Order ("the Order") requires that Google obtain an Assessment and report of its Privacy Program from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession ("the Assessment"). The Assessment was performed under professional standards which meet these same requirements.

PwC has one of the leading privacy practices in the United States and the world. Our dedicated teams of cross-disciplinary specialists help companies develop integrated approaches to privacy, security and information risk management. As a result, Forrester has recognized PwC as the number one privacy and security practice for three consecutive years, noting our integrated approach to privacy, compliance, security, and identity theft prevention as leading factors. In addition, ComputerWorld recognized PwC as tied for the top consulting firm with a privacy practice.

PwC's privacy compliance, information security, and risk management professionals hold leadership positions in many organizations that define privacy leading practices and standards. This exposure provides us deep knowledge of industry practices, procedures and standards as well as global regulatory requirements. Specifically, PwC is a founding member of the third-party Web Seal program TRUSTe, the International Association of Privacy Professionals (IAPP), and other industry groups. PwC specialists also have played leadership roles and drafted guidelines in organizations such as the Direct Marketing Association, Online Privacy Alliance, and the Privacy and American Business Chief Privacy Officer Program.

As one of the "Big 4" public accounting firms, PwC must comply with the public accounting profession's technical and ethical standards, which are enforced through various mechanisms created by the American Institute of Certified Public Accountants ("AICPA") and by state societies of CPAs, state boards of accountancy, the Securities and Exchange Commission ("SEC"), and the Public Company Accounting Oversight Board ("PCAOB"). Membership in the AICPA requires adherence to the Institute's Code of Professional Conduct. The AICPA's Code of Professional Conduct and its enforcement are designed to ensure that CPAs who are members of the AICPA accept and achieve a high level of responsibility to the public, clients, and colleagues. The AICPA Professional Standards provide the discipline and rigor required to ensure engagements performed by CPAs consistently follow specific General Standards, Standards of Fieldwork, and Reporting Standards.

PwC assembled an experienced, cross-disciplinary team of PwC team members with privacy, FTC assessment, and industry experience to perform the Assessor role for the Google FTC Order.

(b)(3):6(f),(b)(4)

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(b)(3):6(f),(b)(4)

Assessment and Reporting Standard

"Assurance" is a term defined by the International Framework for Assurance Engagements issued by the International Auditing and Assurance Standards Board ("IAASB") to mean "an engagement in which a practitioner expresses a conclusion designed to enhance the degree of confidence of the intended users other than the responsible party about the outcome of the evaluation or measurement of a subject matter against criteria." In other words, assurance that A (the subject matter) is presented in accordance with B (the criteria) (for example, A = the Google Privacy Program is presented in accordance with B = "Google specific criteria" defined in Attachment A of Management's Assertion on pages 19-24). The ability to perform an assurance engagement depends significantly on the appropriateness of A and the suitability of B as a measurement tool.

Assurance involves the testing of processes, systems, and data, as appropriate, and then assessing the findings in order to support an assurance conclusion, whether reasonable ("in our opinion, A is presented fairly, in all material respects, with B") or limited ("nothing came to our attention to indicate that A is not presented in accordance with B").

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An attestation "examination" is similar to an audit, as it results in positive assurance (i.e., a "presents fairly, in all material respects" opinion) over the subject matter. The engagement is performed in accordance with AICPA Professional Attestation Standards, (b)(3):6(f),(b)(4) (b)(3):6(f),(b)(4)

In order to accept an assurance engagement, the AICPA's Professional Attestation Standards, (b) (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4) criteria are the standards or benchmarks used to measure and present the subject matter and against which the practitioner evaluates the subject matter.

Suitable criteria must be objective, measurable, complete, and relevant. This means they should be free from bias and sufficiently complete so that any relevant factors omitted would not alter a conclusion about the subject matter. They also should permit reasonably consistent estimation or measurement of the subject matter from one company to another. This generally means that the criteria cannot be so subjective or vague that they are not capable of providing a reasonable basis for a meaningful conclusion.

Criteria may be external to the organization or developed internally, but must be readily available to the intended users of the assurance report. In most cases, there is no single authoritative source of criteria (such as generally accepted accounting principles or "GAAP" for financial statement assurance); therefore, the client needs to look to relevant regulations or frameworks, accepted industry standards, or its own internal policies and procedures when developing the criteria.

Independence

PwC is independent with respect to the professional standards required for this engagement. No other services provided to the Company impair our independence for purposes of this (b)(3):6(f), (b)(4) engagement.

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(b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

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(b)(3):6(f),(b)(4)

Based on PwC's assessment procedures outlined above, the following section summarizes PwC's responses to parts A, B, C and D of Paragraph IV of the Order.

A. Set forth the specific privacy controls that respondent has implemented and maintained during the reporting period.

Google has utilized the company-defined criteria on pages 19-24 as the basis for its Privacy Program. As depicted on pages 19-24, Google has listed the privacy controls that were implemented and maintained during the reporting period.

Google has set forth the privacy controls that the Company has implemented and maintained during the reporting period. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

B. Explain how such privacy controls are appropriate to respondent's size and complexity, the nature and scope of respondent's activities, and the sensitivity of the covered information.

Google's mission is to organize the world's information and make it universally accessible and useful. Google has grown from a company offering search, to offering a variety of services, including Gmail, Google Maps, Google Apps, Blogger, Chrome, Android, YouTube, and Google+, to users around the world. With worldwide headquarters in Mountain View, California, Google employs over 30,000 employs and has more than 70 offices in 40 countries around the world.

User data collected by Google can be generally described as belonging to one of three broad categories:

Log data: Log data is the record that Google keeps of a computer's interaction with Google's service. (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

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Account data: Account data is the information stored in connection with a Google Account that a user has created. (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4) The user can access this data, can delete this data, and can delete the account.

(b)(3):6(f),(b)(4)

Google has implemented a privacy risk assessment process in order to identify reasonably foreseeable, material risks, both internal and external, as well as key privacy controls within processes including training, product design, development, and research that help to mitigate these risks. Refer to the response to letter "C" below for more information on the privacy risk assessment.

Based on the size and complexity of the organization, the nature and scope of Google's activities, and the sensitivity of the covered information (as defined by the Order), Google management developed the company-specific criteria on pages 19-24 as the basis for its Privacy Program. These management assertions and privacy controls are intended to be implemented to meet the requirements identified by Google's privacy risk assessment, which Google performed to identify the applicable privacy risks and safeguards that needed to be implemented as part of its Privacy Program. This is considered to be an applicable set of criteria to address the Company's obligations within the Order.

As described above, Google established privacy controls that are appropriate to its size and complexity, the nature and scope of Respondent's activities, and the sensitivity of covered information. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

C. Explain how the privacy controls that have been implemented meet or exceed the protections required by Part III of the Order.

As summarized in the Google privacy controls on pages 19-24, Google has implemented the following protections:

A. The designation of an employee or employees to coordinate and be responsible for the privacy program.

Google has appointed Dr. Alma Whitten as the Director of Privacy across Engineering and Product Management. Dr. Whitten and her team lead Google's implementation of effective

privacy controls in Google products and services. In addition to the work of Dr. Whitten's team, Google's legal team serves as an important part of the Privacy Program. Google's legal team includes a number of attorneys designated as "Product Area Attorneys" who serve as the primary legal counsel for individual product or service teams. Product Area Attorneys are responsible first and foremost for ensuring that any product or service complies with relevant legal requirements, including those relating to privacy. In addition, Google's legal department now has a team of lawyers and staff (the "Privacy Legal Team") that provide legal support and advice to Product Area Attorneys as needed. The Privacy Legal Team is also responsible for supporting review of Privacy Design Documents to identify privacy legal concerns, and to provide legal guidance and support regarding privacy law to other Google teams and employees as appropriate.

Privacy roles and responsibilities of employees and groups that play a part in privacy at Google are defined and published. (Google privacy control 2.1)

Google maintains an online privacy organizational chart and communication model. (Google privacy control 2.2)

Google publicly states the names, roles, and functions of privacy officials. (Google privacy control 2.3)

A working group of privacy related subject matter experts, the Privacy Working Group ("PWG"), provides oversight of privacy topics. (Google privacy control 2.4)

As described above, Google has designated employees to coordinate and be responsible for the Privacy Program as required by Paragraph III of the Order. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

B. The identification of reasonably foreseeable, material risks, both internal and external, that could result in the respondent's unauthorized collection, use, or disclosure of covered information, and an assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this privacy risk assessment should include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management, including training on the requirements of this order, and (2) product design, development, and research.

Privacy Risk Assessment

Pursuant to the Order's requirement that the respondent perform a privacy risk assessment, Google has implemented a privacy risk assessment process in order to identify reasonably foreseeable, material risks, both internal and external, as well as key privacy controls within

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processes including training, product design, development, and research that help to mitigate these risks.

Google's privacy risk assessment process requires, at a minimum, that formal privacy risk assessments be completed by a cross-functional team of subject matter experts no less than once per year. The group responsible for the privacy risk assessment includes members of the Product and Engineering, Legal, Engineering Compliance, and Internal Audit teams. The Google privacy risk assessment process evaluates potential privacy risks and the sufficiency of existing controls. At the end of each risk assessment cycle, the privacy risk assessment team identifies areas of risk which might warrant additional mitigation, suggests additional or alternative mitigating controls to improve the risk posture of covered information, and escalates these control recommendations as appropriate for evaluation and implementation.

(b)(3):6(f),(b)(4)

Privacy team reviews the Risk Assessment results, and identifies opportunities to further reduce or mitigate risk. (Google privacy control 3.2)

Risk Assessment results are communicated to management in a timely manner. (Google privacy control 3.3)

As described above, Google has identified reasonably foreseeable, material risks, both internal and external, that could result in Google's unauthorized collection, use, or disclosure of covered information, and assessed the sufficiency of any safeguards in place to control these risks as required by Paragraph III of the Order. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

C. The design and implementation of reasonable privacy controls and procedures to address the risks identified through the privacy risk assessment, and regular testing or monitoring of the effectiveness of those privacy controls and procedures.

Design & Implementation of Safeguards

Based on the risks identified through the privacy risk assessment described in B. above, Google designed and implemented the privacy controls documented on pages 19-24.

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Regular Testing & Monitoring of Safeguards

Google regularly tests or monitors the effectiveness of its privacy controls. (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

As described above, Google has designed and implemented reasonable privacy controls and procedures to address the risks identified through the privacy risk assessment, and regular testing or monitoring of the effectiveness of those privacy controls and procedures as required by Paragraph III of the Order. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

D. The development and use of reasonable steps to select and retain service providers capable of appropriately protecting the privacy of covered information they receive from respondent, and requiring service providers by contract to implement and maintain appropriate privacy protections.

Google has developed and implemented reasonable steps to select and contract with service providers capable of appropriately protecting and maintaining the privacy of covered information received from Google. Google also includes terms in contracts with service providers requiring that such service providers implement and maintain appropriate privacy protections.

Selection of Service Providers

The Ethics & Compliance team reviews purchase requisitions and refers service providers to the Vendor Security Audit (VSA) team based on risk. (Google privacy control 6.1)

Service providers are required to sign confidentiality terms as part of the agreement. (Google privacy control 6.3)

VSA team performs a review of service providers according to risk-based process. (Google privacy control 6.4)

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Retention of Service Providers
Privacy related risks are considered and documented as part of scoping and execution for vendor audits performed by Internal Audit. (Google privacy control 6.6)

As described above, Google has developed and used reasonable steps to select and retain service providers capable of appropriately protecting the privacy of covered information they receive from Google, and requiring service providers by contract to implement and maintain appropriate privacy protections as required by Paragraph III of the Order. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

E. The evaluation and adjustment of respondent's privacy program in light of the results of the testing and monitoring required by subpart C, any material changes to respondent's operations or business arrangements, or any other circumstances that respondent knows or has reason to know may have a material impact on the effectiveness of its privacy program.

Given the changing nature of privacy threats, and the constant evolution of Google's business practices, Google implements improved privacy controls over time, and retires legacy controls if they are no longer deemed useful or justified in mitigating privacy risk. (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4)

As described above, Google has evaluated and adjusted its Privacy Program in light of the results of the testing and monitoring required by subpart C within paragraph III, any material changes to Google's operations or business arrangements, or any other circumstances that Google knows or has reason to know may have a material impact on the effectiveness of its Privacy Program as required by Paragraph III of the Order. As described on pages 5-8, PwC performed test procedures to assess the effectiveness of the Google privacy controls implemented to meet or exceed the protections required by Paragraph III of the Order, and PwC's conclusions are on pages 14-15.

D. Certify that the privacy controls are operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the Reporting Period.

As described in the PwC Assessment Overview section above, PwC performed its assessment of Google's Privacy Program in accordance with AICPA Attestation Standards (b)(3):6(f),(b)(4)

(b)(3):6(f),(b)(4) Refer to pages 14-15 for PwC's conclusions.

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Report of Independent Accountants

To the Management of Google, Inc.:

We have examined Management's Assertion, included in the accompanying Exhibit I, that as of and for the six month period ended April 25, 2012 (the "Reporting Period"), in accordance with Parts III and IV of the Agreement Containing Consent Order ("the Order") with a service date of October 28, 2011, between Google ("the Company") and the Federal Trade Commission ("FTC"), that the Company had: (i) established and implemented a comprehensive privacy program, based on Company specific criteria detailed in Attachment A (collectively referred to as the "Google Privacy Program"), and, (ii) the privacy controls were operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the Reporting Period.

The Company's management is responsible for the assertion. Our responsibility is to express an opinion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and accordingly, included examining, on a test basis, evidence supporting the effectiveness of the Google Privacy Program as described above and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion.

We are not responsible for Google's interpretation of or compliance with privacy-related laws, statutes, and regulations applicable to Google in the jurisdictions within which Google operates. We are also not responsible for Google's interpretation of or compliance with privacy-related self-regulatory frameworks. Therefore, our examination did not extend to the evaluation of Google's interpretation of or compliance with privacy-related laws, statutes, regulations, and privacy-related self-regulatory frameworks with which Google has committed to comply.

In our opinion, Google's privacy controls were operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the reporting period, in all material respects as of and for the six months ended April 25, 2012, based upon the Google Privacy Program set forth in Attachment A of Management's Assertion in Exhibit I.

(b)(3):6(f),(b)(4)

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PricewaterhouseCoopers LLP

San Jose, California
June 22, 2012

Our initial assessment report constitutes and reflects work performed or information obtained by PricewaterhouseCoopers LLP, in our capacity as independent assessor for Google for the purpose of the Google FTC Agreement and Order. The report contains trade secrets and confidential commercial information of our firm and Google that is privileged and confidential, and we expressly reserve all rights with respect to disclosures to third parties. Accordingly, we request confidential treatment under the Freedom of Information Act (FOIA) or similar laws and regulations when requests are made for the report or information contained therein or any documents created by the FTC containing information derived there from. We further request that written notice be given to our firm before distribution of the information in the report (or copies thereof) to others, including other governmental agencies, to afford our firm and Google with the right to assert objections and defenses to the release of the information as permitted under FOIA or other similar applicable law or regulation, except when such distribution is already required by law or regulation. This report is intended solely for the information and use of the management of Google and the United States Federal Trade Commission and is not intended to be and should not be used by anyone other than these specified parties.

Google

Exhibit I

Management's Assertion

The management of Google Inc. ("the Company") represents that as of and for the six month period ended April 25, 2012 ("the Reporting Period"), in accordance with Parts III and IV of the Agreement Containing Consent Order ("the Order") with a service date of October 28, 2011, between the Company and the Federal Trade Commission ("FTC"), the Company had: (i) established and implemented a comprehensive privacy program, based on Company specific criteria detailed in Attachment A (collectively referred to as the "Google Privacy Program"), and, (ii) the privacy controls were operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the Reporting Period, in accordance with Part III C of the Order.

Furthermore, the Company represents that for the Reporting Period, the privacy controls within the Google Privacy Program as described in Attachment A are appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the covered information.

Google Inc.

By: _____
Mr. Keith Enright
Senior Privacy Counsel

By: _____
Dr. Alma Whitten
Director, Privacy Engineering & Product Management

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Attachment A to Management's Assertion: Google Privacy Program

This attachment describes the scope of the Google Privacy Program referenced in the management assertion on the previous page.

Google's mission is to organize the world's information and make it universally accessible and useful. The company, which began as a search engine, was founded in 1998 by Larry Page and Sergey Brin. Since then, Google has grown from a company offering search, to offering a variety of services, including Gmail, Google Maps, Google Apps, Blogger, Chrome, Android, YouTube, and Google+, to users around the world.

Google has implemented and maintains a comprehensive privacy program, referred to herein as the Privacy Program, which is documented in written policies and procedures. Google has designated specific officials as responsible for the Privacy Program. While designated employees carry leadership responsibility for coordinating the privacy innovation and compliance efforts across the organization, responsibility for privacy is in no way limited to any individual team. Many employees across teams and functions at Google are responsible for the Privacy Program in various respects.

The Privacy Program has a number of components and teams, collaborating to protect and improve the privacy of Google users, as well as working to promote compliance with the privacy-related laws applicable to Google in the many jurisdictions within which Google operates. Two central aspects of the Privacy Program are the privacy innovation and protection efforts of the Product and Engineering team, and the privacy legal compliance efforts of the Privacy Legal team.

The Privacy Program aims to ensure that Google's products and services consistently promote five core privacy principles (the "Privacy Principles"):

1. Use information to provide our users with valuable products and services.
2. Develop products that reflect strong privacy standards and practices.
3. Make the collection of personal information transparent.
4. Give users meaningful choices to protect their privacy.
5. Be a responsible steward of the information we hold.

On October 22, 2010, Google announced a substantial expansion of its Privacy Program, including a key executive appointment and a number of important privacy controls. Dr. Alan Eustace, Senior Vice President of Engineering at that time, announced the appointment of Dr. Alma Whitten as the Director of Privacy across Engineering and Product Management. Dr. Whitten and her team lead Google's implementation of effective privacy controls in our products and services. In his announcement, Dr. Eustace also noted that Google would enhance privacy training for engineers and other groups and that Tech Leads would be "required to maintain a privacy design document for each initiative they are working on."

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In addition to the work of Dr. Whitten's team, Google's legal team serves as an important part of the Privacy Program. Google's legal team includes a number of attorneys designated as "Product Area Attorneys" who serve as the primary legal counsel for individual product or service teams. Product Area Attorneys are responsible first and foremost for ensuring that any product or service complies with relevant legal requirements, including those relating to privacy. In addition, Google's legal department now has a team of lawyers and staff (the "Privacy Legal Team") that provide legal support and advice to Product Area Attorneys as needed. The Privacy Legal Team is also responsible for supporting review of Privacy Design Documents (as described below) to identify privacy legal concerns, and to provide legal guidance and support regarding privacy law to other Google teams and employees as appropriate.

In order to identify the privacy controls that are appropriate to Google's size and complexity, the nature and scope of Google's activities, and the sensitivity of the covered information as defined in the Order, Google has implemented a privacy risk assessment process in order to identify reasonably foreseeable, material privacy risks, both internal and external, as well as key privacy controls within processes including training, product design, development, and research that help to mitigate these risks. Refer to pages 19-24 below for a list of Google's privacy assertions and controls identified as a result of the privacy risk assessment.

Google's privacy risk assessment process requires, at a minimum, that formal privacy risk assessments be completed by a cross-functional team of subject matter experts no less than once per year. The group responsible for the privacy risk assessment includes members of the Product and Engineering, Legal, Engineering Compliance, and Internal Audit teams. The Google privacy risk assessment process evaluates potential privacy risks and the sufficiency of existing controls. At the end of each risk assessment cycle, the privacy risk assessment team identifies areas of risk which might warrant additional mitigation, suggests additional or alternative mitigating controls to improve the risk posture of covered information, and escalates these control recommendations as appropriate for evaluation and implementation. Consistent with the requirement of the Order that Google implement "controls and procedures appropriate to ... the sensitivity of covered information," the Reporting Period did not include events that would suggest that the Privacy Program failed to provide a reasonable level of assurance to protect the privacy of covered information.

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Google Management Assertions and Supporting Privacy Controls

Control Ref #	Google Privacy Control Description	Consent, Use and/or Disclosure
Assertion 1. **Google has implemented and maintains a comprehensive privacy program, which is documented in written policies and procedures.**		
1.1	The Google Privacy Program is documented in written policies.	Consent Use Disclosure
1.2	The Privacy Program is periodically reviewed for appropriateness.	Consent Use Disclosure
1.3	Internal privacy policies are periodically reviewed for consistency with external privacy policies and updated as necessary.	Consent Use Disclosure
Assertion 2. **Google has designated specific employees as officials responsible for Google's Privacy Program.**		
2.1	Privacy roles and responsibilities of employees and groups that play a part in privacy at Google are defined and published.	Consent Use Disclosure
2.2	Google maintains an online privacy organizational chart and communication model.	Consent Use Disclosure
2.3	Google publicly states the names, roles, and functions of privacy officials.	Consent Use Disclosure
2.4	A working group of privacy related subject matter experts, Privacy Working Group ("PWG"), provides oversight of privacy topics.	Consent Use Disclosure
Assertion 3. **Google has implemented a privacy risk assessment process in order to identify reasonably foreseeable, material risks, both internal and external, as well as key privacy controls within processes including training, product design, development, and research that help to mitigate these risks.**		

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3.1 (7.1)	(b)(3):6(f),(b)(4)	Consent Use Disclosure
3.2 (7.4)	Privacy team reviews the Risk Assessment results, and identifies opportunities to further reduce or mitigate risk.	Consent Use Disclosure
3.3	Risk Assessment results are communicated to management in a timely manner.	Consent Use Disclosure
Assertion 4. **On an ongoing basis, Google implements reasonable privacy controls and procedures to address identified privacy risks.**		
4.1	PDDs are required to be completed and reviewed throughout the product development life cycle.	Consent Use Disclosure
4.2	Google facilitates transparency & choice by providing end-user privacy settings which include: * Dashboards: Account Dashboard, Account Central, Account Activity, Latitude Dashboard, Gov Requests Dashboard * Social Settings: G+ Visibility Inspector, sharing ACLs, Circles * Ads Settings: Ads Preferences Manager * Confidentiality: SSL on Gmail & Search * Data Portability: Data Liberation, deletion	Consent Use Disclosure
4.3	(b)(3):6(f),(b)(4)	Consent Use Disclosure
4.4	(b)(3):6(f),(b)(4)	Consent Use Disclosure

Google

	(b)(3):6(f),(b)(4)	
4.5		*Unused control reference*
4.6		Consent Use Disclosure
4.7		Consent Use Disclosure
4.8		Consent Use Disclosure
4.9	Employees are required to complete Ethics & Compliance code of conduct training, which includes reference to privacy policies, (b)(3):6(f),(b)(4) (b)(3):6(f),	Consent Use Disclosure
4.10	(b)(3):6(f),(b)(4)	Consent Use Disclosure
4.11		Consent Use Disclosure
4.12		Consent Use Disclosure
4.13		Consent Use Disclosure
4.14		Consent Use Disclosure
4.15		Use Disclosure

Google

	(b)(3):6(f),(b)(4)	
4.16	*Unused control reference*	*Unused control reference*
4.17	*Unused control reference*	*Unused control reference*
4.18	*Unused control reference*	*Unused control reference*
4.19	*Unused control reference*	*Unused control reference*
4.20	(b)(3):6(f),(b)(4)	Use Disclosure
4.21		Use Disclosure
4.22		Use Disclosure
4.23	Google maintains a site containing links to each of its privacy policies, and supplemental reference materials explaining its policies, at http://www.google.com/privacy[1].	Consent Use Disclosure
Assertion 5. **Google regularly tests or monitors the effectiveness of the privacy controls.**		
5.1	(b)(3):6(f),(b)(4)	Consent Use Disclosure
5.2 (7.5)		Consent Use Disclosure
5.3		Consent Use Disclosure
5.4		Consent Use Disclosure
5.5	*Unused control reference*	*Unused control reference*

Google

5.6	*Unused control reference*	*Unused control reference*
5.7	*Unused control reference*	*Unused control reference*
Assertion 6. **Google has developed and implemented reasonable steps to select and contract with service providers capable of appropriately protecting and maintaining the privacy of covered information received from Google.**		
6.1	The Ethics & Compliance team reviews purchase requisitions and refers service providers to the Vendor Security Audit (VSA) team based on risk.	Consent Use Disclosure
6.2	*Unused control reference*	*Unused control reference*
6.3	Service providers are required to sign confidentiality terms as part of the agreement.	Use Disclosure
6.4	VSA team performs a review of service providers according to risk-based process	Consent Use Disclosure
6.5	*Unused control reference*	*Unused control reference*
6.6	Privacy related risks are considered and documented as part of scoping and execution for vendor audits performed by Internal Audit.	Consent Use Disclosure
Assertion 7. **Google's Privacy Program is regularly evaluated and adjusted over time in light of the results of testing and monitoring, any material changes to Google's operations or business arrangements, or any other circumstances that Google knows may have a material impact on the effectiveness of the Privacy Program.**		
7.1 (3.1)	(b)(3):6(f),(b)(4)	Consent Use Disclosure
7.2		Consent

(b)(3):6(f),(b)(4)

Google

Policies & Principles

Privacy Policy

Last modified: March 1, 2012 (view archived versions)

There are many different ways you can use our services – to search for and share information, to communicate with other people or to create new content. When you share information with us, for example by creating a Google Account, we can make those services even better – to show you more relevant search results and ads, to help you connect with people or to make sharing with others quicker and easier. As you use our services, we want you to be clear how we're using information and the ways in which you can protect your privacy.

Our Privacy Policy explains:

- What information we collect and why we collect it.
- How we use that information.
- The choices we offer, including how to access and update information.

We've tried to keep it as simple as possible, but if you're not familiar with terms like cookies, IP addresses, pixel tags and browsers, then read about these key terms first. Your privacy matters to Google so whether you are new to Google or a long-time user, please do take the time to get to know our practices – and if you have any questions contact us.

Information we collect

We collect information to provide better services to all of our users – from figuring out basic stuff like which language you speak, to more complex things like which ads you'll find most useful or the people who matter most to you online.

We collect information in two ways:

- **Information you give us.** For example, many of our services require you to sign up for a Google Account. When you do, we'll ask for personal information, like your name, email address, telephone number or credit card. If you want to take full advantage of the sharing features we offer, we might also ask you to create a publicly visible Google Profile, which may include your name and photo.
- **Information we get from your use of our services.** We may collect information about the services that you use and how you use them, like when you visit a website that uses our advertising services or you view and interact with our ads and content. This information includes:
    - **Device information**

      We may collect device-specific information (such as your hardware model, operating system version, unique device identifiers, and mobile network information including phone number). Google may associate your device identifiers or phone number with your Google Account.

    - **Log information**

      When you use our services or view content provided by Google, we may automatically collect and store certain information in server logs. This may include:

- details of how you used our service, such as your search queries.
- telephony log information like your phone number, calling-party number, forwarding numbers, time and date of calls, duration of calls, SMS routing information and types of calls.
- Internet protocol address.
- device event information such as crashes, system activity, hardware settings, browser type, browser language, the date and time of your request and referral URL.
- cookies that may uniquely identify your browser or your Google Account.

- **Location information**

  When you use a location-enabled Google service, we may collect and process information about your actual location, like GPS signals sent by a mobile device. We may also use various technologies to determine location, such as sensor data from your device that may, for example, provide information on nearby Wi-Fi access points and cell towers.

- **Unique application numbers**

  Certain services include a unique application number. This number and information about your installation (for example, the operating system type and application version number) may be sent to Google when you install or uninstall that service or when that service periodically contacts our servers, such as for automatic updates.

- **Local storage**

  We may collect and store information (including personal information) locally on your device using mechanisms such as browser web storage (including HTML 5) and application data caches.

- **Cookies and anonymous identifiers**

  We use various technologies to collect and store information when you visit a Google service, and this may include sending one or more cookies or anonymous identifiers to your device. We also use cookies and anonymous identifiers when you interact with services we offer to our partners, such as advertising services or Google features that may appear on other sites.

How we use information we collect

We use the information we collect from all of our services to provide, maintain, protect and improve them, to develop new ones, and to protect Google and our users. We also use this information to offer you tailored content – like giving you more relevant search results and ads.

We may use the name you provide for your Google Profile across all of the services we offer that require a Google Account. In addition, we may replace past names associated with your Google Account so that you are represented consistently across all our services. If other users already have your email, or other information that identifies you, we may show them your publicly visible Google Profile information, such as your name and photo.

When you contact Google, we may keep a record of your communication to help solve any issues you might be facing. We may use your email address to inform you about our services, such as letting you know about upcoming changes or improvements.

We use information collected from cookies and other technologies, like pixel tags, to improve your user experience and the overall quality of our services. For example, by saving your language preferences, we'll be able to have our services appear in the language you prefer. When showing you tailored ads, we will not associate a cookie or anonymous identifier with sensitive categories, such as those based on race, religion, sexual orientation or health.

We may combine personal information from one service with information, including personal information, from other Google services – for example to make it easier to share things with people you know. We will not combine DoubleClick cookie information with personally identifiable information unless we have your opt-in consent.

We will ask for your consent before using information for a purpose other than those that are set out in this Privacy Policy.

Google processes personal information on our servers in many countries around the world. We may process your personal information on a server located outside the country where you live.

Transparency and choice

People have different privacy concerns. Our goal is to be clear about what information we collect, so that you can make meaningful choices about how it is used. For example, you can:

- Review and control certain types of information tied to your Google Account by using Google Dashboard.
- View and edit your ads preferences, such as which categories might interest you, using the Ads Preferences Manager. You can also opt out of certain Google advertising services here.
- Use our editor to see and adjust how your Google Profile appears to particular individuals.
- Control who you share information with.
- Take information out of many of our services.

You may also set your browser to block all cookies, including cookies associated with our services, or to indicate when a cookie is being set by us. However, it's important to remember that many of our services may not function properly if your cookies are disabled. For example, we may not remember your language preferences.

Information you share

Many of our services let you share information with others. Remember that when you share information publicly, it may be indexable by search engines, including Google. Our services provide you with different options on sharing and removing your content.

Accessing and updating your personal information

Whenever you use our services, we aim to provide you with access to your personal information. If that information is wrong, we strive to give you ways to update it quickly or to delete it – unless we have to keep that information for legitimate business or legal purposes. When updating your personal information, we may ask you to verify your identity before we can act on your request.

We may reject requests that are unreasonably repetitive, require disproportionate technical effort (for example, developing a new system or fundamentally changing an existing practice), risk the privacy of others, or would be extremely impractical (for instance, requests concerning information residing on backup tapes).

Where we can provide information access and correction, we will do so for free, except where it would require a disproportionate effort. We aim to maintain our services in a manner that protects information from accidental or malicious destruction. Because of this, after you delete information from our services, we may not immediately delete residual copies from our active servers and may not remove information from our backup systems.

Information we share

We do not share personal information with companies, organizations and individuals outside of Google unless one of the following circumstances apply:

- **With your consent**

  We will share personal information with companies, organizations or individuals outside of Google when we have your consent to do so. We require opt-in consent for the sharing of any sensitive personal information.

- **With domain administrators**

  If your Google Account is managed for you by a domain administrator (for example, for Google Apps users) then your domain administrator and resellers who provide user support to your organization will have access to your Google Account information (including your email and other data). Your domain administrator may be able to:

  - view statistics regarding your account, like statistics regarding applications you install.
  - change your account password.
  - suspend or terminate your account access.
  - access or retain information stored as part of your account.
  - receive your account information in order to satisfy applicable law, regulation, legal process or enforceable governmental request.
  - restrict your ability to delete or edit information or privacy settings.

  Please refer to your domain administrator's privacy policy for more information.

- **For external processing**

  We provide personal information to our affiliates or other trusted businesses or persons to process it for us, based on our instructions and in compliance with our Privacy Policy and any other appropriate confidentiality and security measures.

- **For legal reasons**

  We will share personal information with companies, organizations or individuals outside of Google if we have a good-faith belief that access, use, preservation or disclosure of the information is reasonably necessary to:

  - meet any applicable law, regulation, legal process or enforceable governmental request.
  - enforce applicable Terms of Service, including investigation of potential violations.
  - detect, prevent, or otherwise address fraud, security or technical issues.
  - protect against harm to the rights, property or safety of Google, our users or the public as required or permitted by law.

We may share aggregated, non-personally identifiable information publicly and with our partners – like publishers, advertisers or connected sites. For example, we may share information publicly to show trends about the general use of our services.

If Google is involved in a merger, acquisition or asset sale, we will continue to ensure the confidentiality of any personal information and give affected users notice before personal information is transferred or becomes subject to a different privacy policy.

Information security

We work hard to protect Google and our users from unauthorized access to or unauthorized alteration, disclosure or destruction of information we hold. In particular:

- We encrypt many of our services using SSL.
- We offer you two step verification when you access your Google Account, and a Safe Browsing feature in Google

Chrome.

- We review our information collection, storage and processing practices, including physical security measures, to guard against unauthorized access to systems.
- We restrict access to personal information to Google employees, contractors and agents who need to know that information in order to process it for us, and who are subject to strict contractual confidentiality obligations and may be disciplined or terminated if they fail to meet these obligations.

Application

Our Privacy Policy applies to all of the services offered by Google Inc. and its affiliates, including services offered on other sites (such as our advertising services), but excludes services that have separate privacy policies that do not incorporate this Privacy Policy.

Our Privacy Policy does not apply to services offered by other companies or individuals, including products or sites that may be displayed to you in search results, sites that may include Google services, or other sites linked from our services. Our Privacy Policy does not cover the information practices of other companies and organizations who advertise our services, and who may use cookies, pixel tags and other technologies to serve and offer relevant ads.

Enforcement

We regularly review our compliance with our Privacy Policy. We also adhere to several self regulatory frameworks. When we receive formal written complaints, we will contact the person who made the complaint to follow up. We work with the appropriate regulatory authorities, including local data protection authorities, to resolve any complaints regarding the transfer of personal data that we cannot resolve with our users directly.

Changes

Our Privacy Policy may change from time to time. We will not reduce your rights under this Privacy Policy without your explicit consent. We will post any privacy policy changes on this page and, if the changes are significant, we will provide a more prominent notice (including, for certain services, email notification of privacy policy changes). We will also keep prior versions of this Privacy Policy in an archive for your review.

Specific product practices

The following notices explain specific privacy practices with respect to certain Google products and services that you may use:

- Chrome and Chrome OS
- Books
- Wallet

Transaction

Ref No.: 12224951 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: DoubleClick) Every three (3) seconds, I get a pop-up message that "Spybot-S&D Reports that I want to download "Doubleclick". After I specify, "No" for the download, the pop-up message repeatedly pops up every three seconds -- to the point that I can NOT use my computer.

Please advise.

Very truly yours,

(b)(6)

E Orange, NJ (b)(6)

Phone (b)(6)

Created By: WFRIDAY Created Date: 11/29/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Internet Complaint Date: 11/25/07

Initial Contact: Unknown Transaction Date: 11/25/07

Initial Response:

Product/Service: Internet Web Site Design\Promotion

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)

Address:

City: E Orange State: NJ Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

Company

Company: Doubleclick

Address: 111 Eighth Avenue
10th Floor

City: New York City State: NY Zip: 10011

Country: UNITED STATES

Email: SamLCalland@yahoo.com URL:doubleclick.com

Phone: (973) 4442381 Ext:

Company Representative

Rep Name: Internet, Internet Title:

Associated Company

Transaction

Ref No.: 10795607 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: SPYWARE) These companies are always using spyware, slowing down my computer and costing me tens of thousands in tarding losses when I am working and or trading stocks on my computer. They all refuse to stop trespassing and I want them stoped, legally and permanently at no cost to me.

I speak for myself and 85,000,000 other US citizens who are being trespassed, where information is sold and distributed without consent.

Created By: MPHILLIPS Created Date: 06/06/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 06/03/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Spyware\Adware\Malware

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Mooresville State: NC Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 50 - 59

Company

Company: DoubleClick Advertising.com | AvenueA,Inc. | CoreMetrics

Address: Unknown

City: Unknown State: NY Zip: 10002

Country: UNITED STATES

Email: Unknown: See their websites for contact information

URL:Doubleclick.com | Advertising.com | AvenueA.com | Coremetrics.com | Mediaplex.com | WebTrends.com

Phone: (unk) known Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10693511 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Charles P Ringling) Doubleclick installed adware onto my computer without my knowledge or consent which caused pop-ups to occur on my computer and kept iexplore.exe in memery bypasing my pop up blocker.

Created By: DCRASE Created Date: 05/18/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method:

Agency Contact: Internet Complaint Date: 05/17/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Spyware\Adware\Malware

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: National City State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

Company

Company: Doubleclick Inc WWW.Dubleclick.net

Address: 940 E 1st street

City: National City State: CA Zip: 91950

Country: UNITED STATES

Email: ckilr@sbcglobal.net URL:

Phone: (619) 474 Ext:

Company Representative

Rep Name: Ringling, Charles Title:

Associated Company

Transaction

Ref No.: 10448315 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Spyware)

Created By: WFRIDAY Created Date: 04/17/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 04/14/07

Initial Contact: Unknown Transaction Date:

Initial Response:

Product/Service: Computers: Equipment\Software

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: portland State: OR Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 20 - 29

Company

Company: Doubleclick

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10994344 Contact Type: Complaint	Source: Consumer	TCS? N
Comments:	(Product Name: Reverse Directory Listings) My telephone number is unlisted for a good reason. This resource is an invasion of my privacy, and I will take legal action to remove our private records from this website. Nobody is accepting any responsibility for this, so I find this situation totally unacceptable.		
Created By:	RLOPER	Created Date:	07/09/07
Updated By:		Updated Date:	
Org Name:	PUBLIC USERS - CIS		
Amt Requested:	39.95		
Amt Paid:	.00	Payment Method:	Not Reported
Agency Contact:	Internet	Complaint Date:	07/06/07
Initial Contact:	Internet/E-mail	Transaction Date:	07/05/07
Initial Response:			
Product/Service:	Other (Note in Comments)		
Statute/Rule:	General Privacy		
Law Violation:	Other privacy violation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	Kansas City	State: MO Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	(b)(6)		
Fax Number:			
Home Number:			
Email:			
Age Range:	40 - 49		

Company

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: service@reversephonedetective.com URL:www.google.com

Phone: (650) 253.0000 Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10991534 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: sales of private information using reverse telephone number) google is selling addresses of persons owning telephones, by using the listed and unlisted numbers to track information that is given to the phone provider in strictest confidence. They also provide a mapto the residence. For an additional feethe same information can be obtained using a pone number. I input my unlisted number and my city and state appeared with the fee showing if I wanted more detai information. To be opted out has a fee also. This is an outrage. Please give me your email address and I'll forward you the email. Thank you.
P.S. This is a danger to children from molester's, and to persons from starkers, as well as to our our safety, including yours

Created By: RBROWN1 Created Date: 07/09/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: .00 Payment Method:

Agency Contact: Internet Complaint Date: 07/05/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: General Privacy

Law Violation: Other privacy violation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Rio Linda State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 60 - 64

Company

Company: Google, and all communication providers,

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:http://www.google.com/

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10983754 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Unsolicited E-mail offensive to my religion) Mr. (b)(6) most likely from the Middle East - Uses an offensive e-mail address "(b)(6) or (b)(6) to send Islamic Propaganda offensive to Christianity including the name he uses for E-mail to me and thousands of Middle East Christians and I asked him more than a dozen time to stop sending his E-mail but he never stops. He keeps changing his e-mail adding numbers to the same offensive e-mail address. Contacted Yahoo, they did nothing. Contacted google with the same result.

William A. Hanna

Created By: DCRASE Created Date: 07/06/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 07/04/07

Initial Contact: Internet/E-mail Transaction Date: 01/01/07

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: CAN-SPAM Act

Law Violation: SPAM: "Remove Me" is missing, broken, or ignored

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Ballwin State: MO Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 60 - 64

Company

Company: Google & Yahoo

Address: yahoo.com or gmail.com

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: yahoo.com or gmail.com URL:

Phone: (636) 3942134 Ext:

Company Representative

Rep Name: jesus_never_crossed@gmail, Abda Title:

Associated Company

Transaction

Ref No.: 10983751 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: The Google website and their cookies) Every time I go to the Google website it puts two spyware cookies on my computer. My spyware scanner says that both of them are bad cookies to have. These two cookies are: revsci.dealtime.com and TData.trb.com I have a lot of cookies on my computer but my scanner says that they all OK except for these two. Can you please look into this for me and confirm if these two cookies are spyware or harmless. Thank you very much, (b)(6)

Created By: DCRASE Created Date: 07/06/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 07/04/07

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Spyware\Adware\Malware

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Daly City State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 50 - 59

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10968312 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Search Engine) I've been getting a problem for over 3 months. I've been getting pop under advertisements whenever I search anything thru' google. I also search through google toolbar but the same exist there. The pop under ads are normally from www.ask.com, www.smashits.com, www.broadcaster.com etc...
No antispyware/anti-malware tool works, tried my best to remove the prob but failed. It only happens with Google searches...

Created By: WFRIDAY Created Date: 07/03/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: Internet Complaint Date: 06/30/07

Initial Contact: Internet Web Site Transaction Date: 06/01/07

Initial Response:

Product/Service: Internet Web Site Design\Promotion

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Delhi State: ZZ Zip: (b)(6)

Country: INDIA

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range:

Company

Company: google search

Address:

City: State: ZZ Zip:

Country: INDIA

Email: URL:www.google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10938971 Contact Type: Complaint Source: Consumer TCS? N

Comments: (Product Name: google search) My unlisted home address and phone number were sold by Dun and Bradstreet to companies as my business information. Websites have listed this information. I have been able to contact several who have deleted the information however the information still appears when a search is done with my name by google. I have submitted requests to google to have this information deleted from the search but my request was denied.

Created By: RLOPER Created Date: 06/28/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Internet Complaint Date: 06/27/07

Initial Contact: Unknown Transaction Date: 06/27/07

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule: General Privacy

Law Violation: Other privacy violation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Murrieta State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 50 - 59

Company

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: URL:http://www.google.com/corporate/

Phone: (650) 253 Ext:

Company Representative

Rep Name: none, none Title:

Associated Company

Transaction

Ref No.: 10923051 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: They have put all my personal information on the web) My family personal information is all over by just typing in my name. This is not legal and I want it removed.

Created By: ISHARP Created Date: 06/26/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 06/23/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Web Site Design\Promotion

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: San Bernardino State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 40 - 49

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: chuckd32@ix.netcom.com URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10904613 Contact Type: Complaint Source: Consumer TCS? Y

Comments: The consumer called to state that google.com is allowing people to see her unlisted number and address. The consumer states that she has her information unlisted so that people can't come to her house when she's not home and break in. The consumer had no more personal or company information to provide.

Created By: JXSMITH Created Date: 06/22/07

Updated By: Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 06/22/07

Initial Response: Unknown

Product/Service: Internet Information & Adult Services

Statute/Rule: General Privacy

Law Violation: Other privacy violation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Albuquerque State: NM Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 50 - 59

Company

Company: GOOGLE.COM

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:www.google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10895622	Contact Type: Complaint	Source: Consumer TCS? Y
Comments:	MAIL: Complaint against Google Inc. Google is placing itself as consumer's search page. Consumer doesn't want this and it keeps replacing her search engine. No alternate ph# or email.		
Created By:	JHART	Created Date:	06/21/07
Updated By:		Updated Date:	
Org Name:	TOLL FREE NUMBER AND CONSUMER SENTINEL		
Amt Requested:	.00		
Amt Paid:	.00	Payment Method:	Unknown
Agency Contact:	Mail	Complaint Date:	05/30/07
Initial Contact:	Internet/E-mail	Transaction Date:	
Initial Response:	Mail		
Product/Service:	Internet Access Services		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	Inglewood	State: CA Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	()	Ext:	
Fax Number:	()		
Home Number:	(b)(6)		
Email:			
Age Range:			

Company

Company: GOOGLE INC

Address: 1600 Amphitheatre Parkway

City: MOUNTAIN VIEW State: CA Zip: 94043

Country: UNITED STATES

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10848550 Contact Type: Request for Information Source: Consumer TCS? Y

Comments:

Consumer is calling concerning a Google Image Search he did on Key West Hotels and discovered that some pornographic images came up with the image search. Consumer was inquiring if they had violated any laws. No work # or email address was given.

Created By: NLAZAR Created Date: 06/14/07

Updated By: Updated Date:

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 06/14/07

Initial Response: Internet/E-mail

Product/Service: Internet Information & Adult Services

Statute/Rule:

Law Violation:

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Spicewood State: TX Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 65 - 69

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10832264 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Web Crawlers and Robots) Howdy,

There are now over 1,000 IP numbers assigned for use by the so called legitimate web crawlers employed by the various search engines. One of sites I Webmaster only has eleven indexable web pages but the logs indicate over 4,000 pages were accessed by search engines in the last ten days. On some of them, the exact same web page was requested over 50 times within minutes. I Webmaster dozens of other web sites experiencing similar attacks.

Many site owners are having to pay extra bandwidth charges because of the excessive and unreasonable access requests. These excessive requests also also occasionally block normal use of their web sites.

Google is one of the main offenders. Requests and complaints over the last two years have been ignored.

From my log reviews, the search engine abuses often amount to Denial of Service attacks. If done by an individual, I believe they would qualify for prosecution.

When will the FTC step in and take some actions to reduce this consumer abuse and in some cases criminal activity?

Thanks, (b)(6)

Created By: RLOPER Created Date: 06/12/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 06/11/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)
Address:
City: Questa State: NM Zip: (b)(6)
Country: UNITED STATES
Work phone (b)(6)
Fax Number:
Home Number:
Email:
Age Range: 65 - 69

Company

Company: Google and other search engines
Address:
City: State: NR Zip:
Country: LOCATION NOT REPORTED
Email: URL:
Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10832185 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: publishing my private e-mails and personal files from my com) If you go to Google.com and type in anyone's phone number you get every web site visited, every e-mail sent and received, and everything saved in your personal files. Mine even opened documents about a court case which were sensitive and private. I am the Plaintiff and the opposing side could read everything. I have asked to be removed from this site but it takes 48 hours and who knows if it will happen. The files they show go back to 2006 or earlier. I have saved these pages in my files to prove that they were shown on line to anyone who knows my phone number. They will probably show up also. I am furious to think every e-mail, file, and web site visited, no matter how personal is available to the general public because of google. I believe at the very least they should have to inform everyone that they are doing this and offer a way to prevent it in the first place. I can forward the files I saved.

Created By: DBRAHLEK Created Date: 06/12/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 06/10/07

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)
Address:

City: Hannibal State: MO Zip: (b)(6)
Country: UNITED STATES
Work phone () Ext:
Fax Number: ()
Home Number: (b)(6)
Email:
Age Range: 60 - 64

Company

Company: GOOGLE.COM
Address:

City: State: NR Zip:
Country: LOCATION NOT REPORTED
Email: URL:www.google.com
Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10831340 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Search results) I am seeking your help in a matter of malicious internet crime affecting several residents of Mercer County.

(b)(6) is a respectable student who graduated from Princeton R-V this year as salutatorian of her class. Over the past year, she has assisted me restore antique musical instruments, and we have received some notoriety on the internet for our accomplishments:

(b)(6)

Her family¿s genealogy is also on the internet:

(b)(6)

However, I recently discovered that (b)(6) has become the target of malicious internet crime. The three legitimate sites listed above have been pooled so they appear in the Google search results for (b)(6) and then redirect the viewer to porn sites. The tags make it appear that (b)(6) is a porn star, which she certainly is not:

(b)(6)

Although I believe that (b)(6) was the intended target, other Mercer County residents have become incidental targets; her father (b)(6) her mother (b)(6) her twelve year old brother Wyatt, and myself are all listed in tags that link to porn sites.

Action must be taken immediately. I have requested Google to remove these pages containing illegal content and links, but they have not as yet removed these false and malicious associations. Even once removed, this information could potentially surface in other search engines such as Yahoo or MSN, if the pages are not entirely and expediently removed by Google.

This situation is tormenting everyone involved.

Created By: JKIGHT Created Date: 06/12/07
Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS
Amt Requested:
Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 06/09/07

Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)

Address:

City: Princeton State: MO Zip: (b)(6)

Country: UNITED STATES
Work phone () Ext:
Fax Number: ()
Home Number: (b)(6)
Email:
Age Range: 30 - 39

Company

Company: Google Inc.

Address: 1600 Amphitheatre Parkway

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: URL:http://www.google.com/intl/en/contact/index.html

Phone: (650) 253 Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10938116 Contact Type: Complaint Source: Consumer TCS? Y

Comments: COMPLAINANT HAS A COLD AND NOT COMFORTABLE SPEAKING HE WILL FORWARD E-MAILS TO WAFL@PHONEBUSTERS.COM. HE HAS NOT PROVIDED SUSPECTS WITH ANY PERSONAL INFORMATION AT THIS TIME. How/when was first contact made ----- 02-JUN-2007 BY E-MAIL. From (suspect name | suspect company | address) ---- GOOGLE LOTTERY Phone number provided by suspect ----- (b)(6) (b)(6) E-mail Address ---- Website ---- (b)(6) What was won ---- LOTTERY From whom ---- GOOGLE How much ---- Details (batch number, ticket number, lucky numbers etc.....) ---- Prize Claim deadline date---- Information requested on payment claims form ---- Was personal information provided---- Was any money requested ---- 320 EUROS. Reason for payment requested - (tax, duty, insurance, delivery) ---- INSURANCE. Payment details (method, amount, date, who) ---- NONE AS YET. Other suspect info (names, dates, address etc) ---- Was any prize received, if not has refund been requested by complainant ---

Created By: PHNB Created Date: 06/12/07

Updated By: Updated Date:

Org Name: Ontario Provincial Police, Anti Rackets (Phonebusters)

Amt Requested: 320.00

Amt Paid: 320.00 Payment Method: Unknown

Agency Contact: External Agency Complaint Date: 06/12/07

Initial Contact: Internet/E-mail Transaction Date: 06/12/07

Initial Response: Internet/E-mail

Product/Service: Prizes\Sweepstakes\Gifts

Statute/Rule:

Law Violation:

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: OTTAWA State: ON Zip:

Country: CANADA

Work phone (b)(6) Ext:

Fax Number: ()

Home Number: ()

Email:

Age Range:

Company

Company: GOOGLE LOTTERY

Address:

City: ATHENS State: ZZ Zip:

Country: GREECE

Email: URL:

Phone: () 02168696 Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10813947 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Push-Ads) People recieve kickback money for clicking on ads that advertisers pay. Many web site are built just to have ad's placed, so people click and unknowingly cause the advertiser to pay money to Google and then Google pays the web site.
Is'nt there a law that stops this kickback Ad set up?

Created By: RLOPER Created Date: 06/08/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 06/07/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Shop-at-Home\Catalog Sales

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Paradise State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

Company

Company: Google

Address:

City: Mountain View State: CA Zip:

Country: UNITED STATES

Email: URL:http://www.google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10787516 Contact Type: Complaint Source: Consumer TCS? N

Comments: (Product Name: ADWORDS CREATED/MANAGED WEB PAGES)
GOOGLE/ADWORDS BY VERY SLICK, CLEVER PROMOTIONAL COPY LURED ME INTO SIGNING WITH. THEIR RECENT COPY STATED "GOOGLE...THE LAZYT MAN'S WAY TO GETTING RICH" (SHOWING A MAN IN A BATHING SUIT LYING IN A HAMMOCK.)

I SIGNED WITH GOOGLE ON 9/29/06. THE GOOGLE ADWORD INTERNET FLYERS BACK THEN HEADED WITH "GROWING RICH WITH GOOGLE - Thank You for Ordering Growing Rich with Google"

The copy included on other Google Adword INTERNET promotional flyers, which I had read and induced me to sign on with Google adwords, states: "Get me on Package:"
Fast easy set-up; No set-up fee, no contract; GOOGLE EXPERT TO SET UP YOUR ACCOUNT; TAILOR-MADE ADS SPECIFIC TO YOUR BUSINESS; CUSTOMIZED KEYWORD LIST FOR YOUER CAMPAIGN; REPORTING TO MONITOR YOUR CAMPAIGN'S PROGRESS.

MY ACCOUNT WAS CANCELLED BY ME O0N 12/1/06.

GOOGLE ADWORDS SELF DESIGNED ADS PLACED INTO GOOGLE WHEN AND WHERE THEY DECIDED STIMULATED MANY MONTHLY (OCTOBER, NOVEMBER) SUPPOSED NON-SALE CONTACTS CALLED "TICS"

FOR THESE GOOGLE ADWORDS CHARGED MY ACCOUNT FOR A TOTAL OF $1266.95. -- THAT NUMBER INCLUDED $714.80 AFTER GOOGLE ADWORDS HAD ACKNOWLEDGED THAT MY ACCOUNT HAD BEEN CANCELLED ON 12/1/06

Created By: RLOPER Created Date: 06/05/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: 39.95

Amt Paid: 1,266.95 Payment Method: Visa Credit Card

Agency Contact: Internet Complaint Date: 05/31/07

Initial Contact: Internet (Other) Transaction Date: 05/09/07

Initial Response:

Product/Service: Other (Note in Comments)

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)
Address:
City: BOYNTON BEACH State: FL Zip: (b)(6)
Country: UNITED STATES
Work phone (b)(6)
Fax Number:
Home Number:
Email:
Age Range: 80 and Over

Company

Company: GOOGLE & ADWORDS
Address: 10161 PARK RUN DRIVE #150

City: LAS VEGAS State: NV Zip: 89145
Country: UNITED STATES
Email: adwords-support@google.com URL:GOOGLE ADWORDS
Phone: (NA) NA Ext:

Company Representative

Rep Name: NA, KADAMBARI Title:

Associated Company

Transaction

Ref No.: 10771999 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Could not find a form that fit compalint I have. I was told if I put my phone number in google people could get my name and get a map to my house. This is real scary for me. I am single live on a dead end road in the country ALONE. Guess the answer will be for everyone to arm themselves. In Florida we have the right to protect ourselves. But this does not seem like it ought to be allowed at all. Thank you for listening

Created By: ASMITLEY Created Date: 06/01/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/30/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: General Privacy

Law Violation: Other privacy violation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Floral City State: FL Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 60 - 64

Company

Company: GOOGLE.COM

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10771994 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: AdWords) Google has a monopoly in the online search advertising market in the United States as well as the market for monetizing website traffic. See my antitrust 2nd amended complaint against Google at (b)(6) for a description of the problem as well as a list of 40 acquisitions by Google enabling it to acquire its monopoly by acquisition.
Google is maintaining in my lawsuit that all internet adverising is the relevant service market, but it is quite clear that search advertising is a separate market, and because of this Google can be expected to justify its acquisition of DoubleClick. The FTC would not allow Google to acquire Yahoo or the search-advertising business of Microsoft (because they are all in the same search-advertising market), but Google expects the FTC to allow the DoubleClick acquisition because DoubleClick is not in the search-advertising market. It is in the non-search advertising market. The FTC should inquire of Google whether it is taking inconsistent positions before the FTC and federal court in (b)(6) v. Google.

(b)(6)

New York NY (b)(6)

email: (b)(6)

Created By: ASMITLEY Created Date: 06/01/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/30/07

Initial Contact: Internet/E-mail Transaction Date:

Initial Response: Topic: Bureau of Competition

Product/Service: Internet Access Services

Statute/Rule: Rule / Other

Law Violation: Other (Note the Violation in the Comment Field)

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: New York State: NY Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 70 - 79

Company

Company: Google, Inc.

Address:

City: State: CA Zip:

Country: UNITED STATES

Email: URL:www.google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10763390	Contact Type: Complaint	Source: Consumer TCS? Y
Comments:	(Product Name: Google Updater) started a free download of google software window said estimated time 5hr and some minutes I chose not to download. But now have Google Updater installed in my computer and it won't let me uninstall or delete. I can't email Google and all they have is useless generic info avail online. This was invasive, unwanted and I can't contact them online.		
Created By:	DCRASE	Created Date:	05/31/07
Updated By:		Updated Date:	
Org Name:	PUBLIC USERS - CIS		
Amt Requested:	.00		
Amt Paid:	.00	Payment Method:	
Agency Contact:	Internet	Complaint Date:	05/29/07
Initial Contact:	Internet Web Site	Transaction Date:	05/29/07
Initial Response:			
Product/Service:	Computers: Equipment\Software		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:	
Last name:	(b)(6)
Address:	
City:	Hopkins State: MI Zip: (b)(6)
Country:	UNITED STATES
Work phone	() Ext:
Fax Number:	()
Home Number:	(b)(6)
Email:	
Age Range:	50 - 59

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10763322 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: DOUBLE CLICK) DOUBLE CLICK invades my privacy. It enters my computer unvited. It then sends messages telling what I do on my computer. This information should not go to GOOGLE. I sue GOOGLA at least once a week, and think it is great. But Google should not have the personal information collected by Double Click. In fact Double Click should not exist. It slows down the speed of my computer. Please protect me and other consumers. Reject the acquisition.Please confirm receipt of this complaint.

Created By: DCRASE Created Date: 05/31/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/29/07

Initial Contact: Print Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: corpus christi State: TX Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 80 and Over

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10763263	Contact Type: Complaint	Source: Consumer TCS? Y
Comments:	(Product Name: Google Desktop) Google Desktop is running on my notebook computer all the time, sending my .doc. .xls and .txt files to its server. Funny thing is, I don't remember downloading Google Desktop. I have a Google email address and an iGoogle customized home page, but I never downloaded Google desktop. Google needs to cool its jets and I sure hope you guys do something about it soon.		
Created By:	DCRASE	Created Date:	05/31/07
Updated By:		Updated Date:	
Org Name:	PUBLIC USERS - CIS		
Amt Requested:			
Amt Paid:		Payment Method:	
Agency Contact:	Internet	Complaint Date:	05/29/07
Initial Contact:	Internet (Other)	Transaction Date:	
Initial Response:			
Product/Service:	Internet Access Services		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	San Diego	State: CA Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	()	Ext:	
Fax Number:	()		
Home Number:	(b)(6)		
Email:			
Age Range:	30 - 39		

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10748407 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Stock Purchase and Stock Awarded) Dear FTC, Can you please follow up on complaint FTC Ref # 9920248 ? In addition to the three acccounts I had listed that needed to be audited. I also have account # (b)(6) this account was created after I was awarded 500,000 shares of Google, Inc stock in 1996 for helping write the initial search engine with the help of (b)(6) of Moscow, (b)(6) Father) and (b)(6) Lastly, in my last email, I had mentioned that I had account number 0000005, there should be a prefix of KG in front of the account number, it should read, (b)(6) the KG reflects an account created by Mr. Karl Glasscock. Thanks again for your help. Sincerely, (b)(6)

Created By: RLOPER Created Date: 05/29/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: 140,000.00 Payment Method: Check (Personal)

Agency Contact: Internet Complaint Date: 05/25/07

Initial Contact: Mail Transaction Date:

Initial Response:

Product/Service: Invest: Stocks\Commodity Futures Trading

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: San Diego State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: ()

Email: (b)(6)

Age Range: 40 - 49

Company

Company: Google, Inc

Address: 1600 Amphitheatre Parkway

City: Mountain View State: CA Zip: 92114

Country: UNITED STATES

Email: investors@google.com URL:http://investor.google.com/

Phone: (650) 253-0000 Ext:

Company Representative

Rep Name: Brin, Sergey Title:

Associated Company

Transaction

Ref No.:	10722325	Contact Type:	Request for Information	Source: Consumer TCS? Y
Comments:	Consumer wanted to know who regulates Google. Her son can not post anything on Google.			
Created By:	ISANDERS		Created Date:	05/23/07
Updated By:			Updated Date:	
Org Name:	TOLL FREE NUMBER AND CONSUMER SENTINEL			
Amt Requested:				
Amt Paid:			Payment Method:	
Agency Contact:	Phone		Complaint Date:	
Initial Contact:	Unknown		Transaction Date:	05/23/07
Initial Response:	Unknown			
Product/Service:	Internet Information & Adult Services			
Statute/Rule:	FTC Act Sec 5 (BCP)			

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: New Albany State: IN Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 80 and Over

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: New Albany State: IN Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6) Ext:

Fax Number:

Home Number:

Email:

Age Range:

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10653296 Contact Type: Request for Information Source: Consumer TCS? Y

Comments:

Consumer has a complaint against Google Inc. Consumer states they provide a means for people to misuse her telephone number. Consumer states people have been creating email accounts and providing her telephone number to make inquiries with mortgage companies. Consumer does not feel she is a victim of IDT.

Created By: BMORGAN Created Date: 05/15/07

Updated By: BMORGAN Updated Date: 05/15/07

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Unknown

Agency Contact: Phone Complaint Date:

Initial Contact: Phone Transaction Date: 04/01/07

Initial Response: Answer cold call

Product/Service: Computers: Equipment\Software

Statute/Rule:

Law Violation:

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Palos Verdes Estates State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 40 - 49

Company

Company: Google

Address: 1600 Ampitheatre Pkwy

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10622814 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Google.com has violated my privacy rights. this company disclosed information in an ongoing investigation. "open case" by which i have not been convicted of, furthermore i would like to conclude that the information which is now public, is not complete. my request it to have this disinformation removed at once. or that it contain the full investigation history. sincerely... (b)(6)
the pivacy violations are as follows-
the fifth amendment "nor shall private property be taken for public use, without just compensation". the privacy act: No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be--

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;
(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either--

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

Created By: DCRASE Created Date: 05/14/07
Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS
Amt Requested:
Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/11/07

Initial Contact: Unknown Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule:

Law Violation:

Consumer

Complaining Company/Org.:
Last name: (b)(6)

Address:

City: cisco State: TX Zip: (b)(6)

Country: UNITED STATES
Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 20 - 29

Company

Company: GOOGLE.COM

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10612315 Contact Type: Complaint Source: Consumer TCS? Y

Comments:

Dear Sir or Madam,

I really need your assistance. I made the mistake of inputting my email address on a Google page regarding an article. When I input my email address, it immediately set up a "Google Account" it said from an email I received. I then began to receive spam. I went on Google's web site and signed in so that I could remove my email address. There was no option to do so; only an option to change my email address. I emailed Google and requested that they remove my email account and/or email address from their system. They responded that they would not do this.

When I make a request to have my email address removed from a website, my request absolutely should be honored.

Please assist me in letting me know what options I have to have my email address removed. When I entered my email address on this website, I did not know that it would be sold to companies and made public to the entire world.

Thank you for your assistance in advance,

(b)(6)

(b)(6)

Created By: RLOPER Created Date: 05/11/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/10/07

Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: CAN-SPAM Act

Law Violation: SPAM: Other\general annoyance

Consumer

Complaining Company/Org.:
Last name: (b)(6)
Address:
City: Los Angeles State: CA Zip: (b)(6)
Country: UNITED STATES
Work phone (b)(6)
Fax Number:
Home Number:
Email:
Age Range: 20 - 29

Company

Company: Google
Address:
City: State: NR Zip:
Country: LOCATION NOT REPORTED
Email: URL:
Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10611367	Contact Type: Complaint	Source: Consumer TCS? Y
Comments:	Consumer states that Google.com is publishing info on the internet about the consumer. The internet information company is publishing court documents. Consumer is getting conflicting information from the company. Consumer feels this is unfair. The company states there is no way to remove the info from the internet. Consumer feels the company is making money. Consumer did not provide an email.		
Created By:	ETINKER	Created Date:	05/11/07
Updated By:		Updated Date:	
Org Name:	TOLL FREE NUMBER AND CONSUMER SENTINEL		
Amt Requested:	.00		
Amt Paid:	.00	Payment Method:	Not Reported
Agency Contact:	Phone	Complaint Date:	
Initial Contact:	Internet Web Site	Transaction Date:	11/01/06
Initial Response:	Phone: 800/888		
Product/Service:	Internet Information & Adult Services		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	Beverly Hills	State: CA Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	(b)(6)	Ext:	
Fax Number:			
Home Number:			
Email:			
Age Range:	50 - 59		

number

Company

Company: GOOGLE.COM

Address:

City: Mountainview State: CA Zip:

Country: UNITED STATES

Email: URL:

Phone: (650) 6234000 Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10610826 Contact Type: Complaint	Source: Consumer	TCS? Y
Comments:	MAIL: Consumer has complaint against Google. Consumer provides Google list consumers name, address and map to their home. No alternate ph# or email.		
Created By:	JHART	Created Date:	05/11/07
Updated By:		Updated Date:	
Org Name:	TOLL FREE NUMBER AND CONSUMER SENTINEL		
Amt Requested:	.00		
Amt Paid:	.00	Payment Method:	Unknown
Agency Contact:	Mail	Complaint Date:	04/21/07
Initial Contact:	Internet Web Site	Transaction Date:	04/04/07
Initial Response:	Internet/E-mail		
Product/Service:	Internet Information & Adult Services		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	North Richland Hills	State: TX Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	() Ext:		
Fax Number:	()		
Home Number:	(b)(6)		
Email:			
Age Range:			

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10602964 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: ADWORDS) The Google company has processed 3 fraudulent credit card transactions in my name to my credit card. To my first 3 requests they stated that it was their policy not to give out this information. When I pushed this issue further, they told me I would need a subpeona.

I have repeatedly requested for all account information verbally and in writing to Google employees, I sent them a copy of sec. 151 law.

I have provided GOOGLE with my Phoenix Police Report number regarding the incident.

They will not respond to my requests.

Created By: DBRAHLEK Created Date: 05/10/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/08/07

Initial Contact: Internet/E-mail Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Phoenix State: AZ Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 40 - 49

Company

Company: Google

Address: 1600 Amphitheater Parkway

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: 'lisa.m@google.com'; 'legal@google.com'; 'legal-support@google.com'

URL:www.google.com

Phone: (650) 253-0000 Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10593751 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: AdSense Advertizing Program) I entered into the Google AdSense program. I worked for 20 days preparing my website to adequately run Google AdSense ads. On the 20th day, after working approximately 120 hours to prepare my website, Google emailed me and informed me I was dropped from the AdSense program. Google will not give me details related to my reason for termination.

Google advertises on their AdSense website that an applicant to the program can be accepted into the program and be earning advertising revenues within minutes. This was the case with me. And after this quick acceptance into the program, I then proceeded to spend the next three weeks and 120 hours on preparing my website to optimize my participation in the program. I did this thinking I was secure in my acceptance and participation in the program.

On the 20th day of my enrollment in the program, without warning notice of the mistake that I was making in preparing my website for participation into the program, Google terminated my enrollment, without recourse. Google has refused to give me details on my mistake. Google has misrepresented my mistake and has made incorrect assumptions and statements about the mistake without providing any supporting data. Google has misrepresented their terms with respect to my termination. Google has taken advantage of their position and the way in which they will accept participants into the AdSense program, and then terminate them without fair and adequate cause and consideration.

The termination has caused me great harm. Not only have I lost the time spent while in the program, but I have also expended a great amount of time subsequent to my termination defending myself. My business has suffered because of the Google termination.

Any reasonable analysis of the actions taken by Google would conclude that Google acted very unfairly with respect to their termination of me from the AdSense program.

Created By: LSHARP Created Date: 05/09/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 05/06/07

Initial Contact: Internet Web Site Transaction Date: 09/01/05

Initial Response:

Product/Service: Internet Web Site Design\Promotion

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)

Address:

City: Frederick State: MD Zip: (b)(6)

Country: UNITED STATES

Work phone (b)(6)

Fax Number:

Home Number:

Email:

Age Range: 60 - 64

Company

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: press@google.com URL:www.google.com

Phone: (650) 6234000 Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10552339 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Calling for his girlfriend. Consumer states that they bought a pair of shoes online and when checking out he was forwarded through Google accounts and that seller's information was all generic information. Consumer states that he feels Google should be responsible because the information on this other persons account was obviously not real, phone number was consecutive numbers, address stated it was in California, MA. Consumer states that Google should have caught something like that if they are going to allow money to change hands through them. No secondary number.

Created By: KMURRAY Created Date: 05/03/07

Updated By: KMURRAY Updated Date: 05/03/07

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: 94.99

Amt Paid: 94.99 Payment Method: MasterCard Credit Card

Agency Contact: Phone Complaint Date:

Initial Contact: Internet Web Site Transaction Date: 05/03/07

Initial Response: Internet/E-mail

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)
Address:

City: Santa Rosa State: CA Zip: (b)(6)
Country: UNITED STATES
Work phone () Ext:
Fax Number: ()
Home Number: (b)(6)
Email:
Age Range: 20 - 29

Complaining Company/Org.:
Last name: (b)(6)
Address:

City: Santa Rosa State: CA Zip: (b)(6)
Country: UNITED STATES
Work phone () Ext:
Fax Number: ()
Home Number: (b)(6)
Email:
Age Range: 20 - 29

Company

Company: Google
Address:

City: State: NR Zip:
Country: LOCATION NOT REPORTED
Email: URL:
Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10525494	Contact Type: Complaint	Source: Consumer TCS? Y
Comments:	(Product Name: Search Engine) When I do a Google.com search for a topic or image I am automatically directed to a commercial site selling me something, it could be Monster.com and it is unbelievable. I have lost control to some business entity selling ads via Google search.		
Created By:	MPHILLIPS	Created Date:	04/30/07
Updated By:		Updated Date:	
Org Name:	PUBLIC USERS - CIS		
Amt Requested:	.00		
Amt Paid:	.00	Payment Method:	Unknown
Agency Contact:	Internet	Complaint Date:	04/26/07
Initial Contact:	Internet Web Site	Transaction Date:	
Initial Response:			
Product/Service:	Internet Information & Adult Services		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	Corvallis	State: OR Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	(b)(6)		
Fax Number:			
Home Number:			
Email:			
Age Range:	60 - 64		

Company

Company: Google

Address:

City: State: CA Zip:

Country: UNITED STATES

Email: URL:Google.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10511637 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google Checkout) Google has an ad on my email saying sign up for google checkout and get $10 off your first purchase. I signed up and then was sent to a page saying now spend your 10$. I made a purchase but never received the $10 off. They said I signed up earlier but there was no indication of that when I signed up yesterday and I thought I was signing up for a new service. I also have never used google checkout for a purchase before and every page assured me that I was going to get a $10 discount for my first purchase. I feel that I was mislead and that they should honor what each of the pages told me as I signed up that I would be getting a $10 credit for my first purchase.

Created By: MPHILLIPS Created Date: 04/27/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 04/25/07

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: San Francisco State: CA Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (b)(6)

Email:

Age Range: 30 - 39

Company

Company: Google

Address: 1600 Amphitheatre Parkway

City: Mountain View State: CA Zip: 94043

Country: UNITED STATES

Email: checkout-support@google.com URL:www.google.com

Phone: (650) 2530000 Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10502873 Contact Type: Complaint	Source: Consumer	TCS? N
Comments:	(Product Name: Google AdWords "get me on media") I signed up for a 14-day trial 3/21/2007. They said to unsubscribe during my 14-day trial. I did 3/25/2007. They charged my credit card anyway this month. 4/21/2007 GET ME ON MEDIA , 8009362085 , CA $59.00		
Created By:	RLOPER	Created Date:	04/26/07
Updated By:		Updated Date:	
Org Name:	PUBLIC USERS - CIS		
Amt Requested:	64.95		
Amt Paid:	64.95	Payment Method:	MasterCard Credit Card
Agency Contact:	Internet	Complaint Date:	04/24/07
Initial Contact:	Internet Web Site	Transaction Date:	
Initial Response:			
Product/Service:	Other (Note in Comments)		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:	
Last name:	(b)(6)
Address:	
City:	Crystal Beach State: TX Zip: (b)(6)
Country:	UNITED STATES
Work phone	() Ext:
Fax Number:	()
Home Number:	(b)(6)
Email:	
Age Range:	40 - 49

Company

Company: Google AdWords "get me on media"

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:http://google.advertisingwebservice .com "get me on media"

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10485759 Contact Type: Complaint Source: Consumer TCS? Y

Comments: Received email from friend...said google gives out name, address and even maps to your home with either name or telephone search....DO NOT want this or like this....our address and phone number and email addresse are NOT for sale. Even though we do PAY to not be listed in the phone book....google found me....! We must list certain information, but what exactly protects US citizens from having the businesses share our information....they say they do/will not give out information...BUT they DO!
Want Google to STOP.
LW

Created By: WFRIDAY Created Date: 04/24/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 04/22/07

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Access Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Pinetop State: AZ Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: ()

Email: (b)(6)

Age Range: 50 - 59

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10484986	Contact Type: Complaint	Source: Consumer TCS? Y
Comments:	The consumer states that he is having problems with Google because his web comes with all porno information and he want to place a complaint against GOOGLE>		
Created By:	JXSMITH	Created Date:	04/24/07
Updated By:		Updated Date:	
Org Name:	TOLL FREE NUMBER AND CONSUMER SENTINEL		
Amt Requested:			
Amt Paid:		Payment Method:	
Agency Contact:	Phone	Complaint Date:	
Initial Contact:	Internet Web Site	Transaction Date:	04/24/07
Initial Response:	Internet/E-mail		
Product/Service:	Internet Information & Adult Services		
Statute/Rule:	FTC Act Sec 5 (BCP)		
Law Violation:	Deception/Misrepresentation		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	Hopewell Junction	State: NY Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	()	Ext:	
Fax Number:	()		
Home Number:	(b)(6)		
Email:			
Age Range:	80 and Over		

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10448940 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: their services of slandering) I received email on February 27, 2007 from Google informing me that my business website had been placed on the badware list.
I found that someone had hacked my website and placed a virus there, which I immediately corrected.
I went to stopbadware.org and filled out a form asking them to promptly remove the stopbadware from the google search engine and their auto response was "We take care of problems in the order they were received" Now over 6 weeks later nothing has been done.
This company should not be allowed to ruin my business by placing us on a badware list and preventing clients from going to our website.
The stopbadware website may have good intentions however, they should take care of this within a reasonable amount of time like 48 hours.
Use Google search enging and search for Donald Roan, Auctioneer. It will say we are a badware site. Clients call me continuously saying they cannot get into my site because Google won't let them.
our website ROAN.BIZ is NOT a badware site and this Google company has been slandering us to the world as one for the past 6 weeks. Neither they nor the stopbadware.org will contact me when I've requested that they do.
They probably have done this horrid thing to other companies also. I need them to remove roan.biz from their badware list so that our clients can go to our website when they search for it.
Thank you for your help

Created By: MPHILLIPS Created Date: 04/17/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: .00

Amt Paid: .00 Payment Method:

Agency Contact: Internet Complaint Date: 04/13/07

Initial Contact: Internet/E-mail Transaction Date: 02/27/07

Initial Response:

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: Roan First: Cheryl and Donald

Address: 307 Dande Drive

City: Roaring Branch State: PA Zip: 17765

Country: UNITED STATES

Work phone (570) 324-2813 Ext:

Fax Number: ()

Home Number: (570) 324-2813

Email: roan@epix.net

Age Range: 40 - 49

Company

Company: Google and StopBadware.org

Address:

City: unknown State: NR Zip:

Country: LOCATION NOT REPORTED

Email: unknown URL:google.com and stopbadware.org

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10421397 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: BAIT AND SWITCH WITH SPONSORED LINK ADS GOOGLEYAHOOMSNAOL) Re: Bait and Switch in Google, Yahoo, and Msn and Aol under the search for psychic rose and in various combinations of words (using psychic rose words first with variations. BAIT AND SWITCH SPONSORED LINK ADS

I am writing to you because Google ADwords sponsored link ads is going across their entire search results for psychic rose (a registered trademark name) (any words pertaining to psychic rose in that order) Googe, Yahoo, Msn, and Aol are breaking the laws of bait and switch.

You type in psychic rose or psychic rose ny, or psychic rose readings etc... (any variation using the words psychic rose first) and you click on my website(s) psychicrose.com and/or tarotcardreadingsbypsychicrose.com then when you to go to get back out of my website Google sponsored link ad Yahoo, Msn and Aol) bait and switch you by false advertising trying to convince you to not pick me!

Meaning: your intentions are to type psychic rose in google search (Yahoo, Msn, Aol) to go to my websites www.psychicrose.com and/or rotcardreadingsbypsychicrose.com and if you do not pick their Google sponosred link ad (instead of mine) then when you go out of my website (because you wanted me) then they bait and switch the sponsored link ad (Google, Yahoo, Msn Aol) to make it more false advertising tempting you more to change your mind and pick their sponsored link ad.

Created By: JXHEINY Created Date: 04/12/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested: 20,000.00

Amt Paid: 20,000.00 Payment Method: MasterCard Credit Card

Agency Contact: Internet Complaint Date: 04/10/07

Initial Contact: Internet (Other) Transaction Date:

Initial Response:

Product/Service: Internet Auction

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: Ann Marie Conti First: Psychic Rose

Address: Po Box 2471

City: Ronkonkoma State: NY Zip: 11779

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: (631) 3314860

Email: psychicrose@psychicrose.com

Age Range: 40 - 49

Company

Company: Google, Yahoo, Msn and Aol sponsored link ads Internet Fraud

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10421385 Contact Type: Complaint Source: Consumer TCS? Y

Comments: (Product Name: Google Adwords) Google Adwords is a internet search engine advertisement service offered by the corporate giant Google. Google and it¿s search engine partners control over 70% of the internet search engine marketplace so if you don¿t advertise your website on Google you are out of business.

The cost of Google Adwords service is set up ostensibly as a fair market auction system where prices are set by competitive bidding between advertisers. Prices for specific search words can range from 5cents per click to several dollars per click but most advertisers bid less than 40 cents per word.

The problem now is that in recent months Google is deactivating certain words that have lower bids instead of letting other bidders set the fair market price at which search words can be obtained. Google insists that advertisers raise bids to a specified level, often well over 50 cents, in order to reactivate the search words.

I consider this to be an anti fair-trade practice in view of Google¿s near monopoly on the search engine marketplace.

Created By: JXHEINY Created Date: 04/12/07

Updated By: Updated Date:

Org Name: PUBLIC USERS - CIS

Amt Requested:

Amt Paid: Payment Method:

Agency Contact: Internet Complaint Date: 04/10/07

Initial Contact: Internet Web Site Transaction Date:

Initial Response:

Product/Service: Internet Auction

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:
Last name: (b)(6)
Address:

City: Englewood State: FL Zip: (b)(6)
Country: UNITED STATES
Work phone (b)(6)
Fax Number:
Home Number:
Email:
Age Range: 30 - 39

Company

Company: Google
Address:

City: State: NR Zip:
Country: LOCATION NOT REPORTED
Email: URL:
Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.:	10404306 Contact Type: Complaint	Source: Consumer	TCS? Y
Comments:	(Product Name: "reverse" phone number service) These websites offer a service, where anyone can take a phone number, enter it on a form, and immediately get the address and directions to that person's home. This is an unnecessary and potentially dangerous service. If a person wants an address or directions and has a phone number, they can simply call the number and ask.		
Created By:	JXHEINY	Created Date:	04/10/07
Updated By:		Updated Date:	
Org Name:	PUBLIC USERS - CIS		
Amt Requested:			
Amt Paid:		Payment Method:	
Agency Contact:	Internet	Complaint Date:	04/05/07
Initial Contact:	Unknown	Transaction Date:	
Initial Response:			
Product/Service:	Internet Information & Adult Services		
Statute/Rule:	General Privacy		
Law Violation:	Company does not provide any opportunity for consumer to opt out of information sharing		

Consumer

Complaining Company/Org.:			
Last name:	(b)(6)		
Address:			
City:	St. Louis	State: MO Zip:	(b)(6)
Country:	UNITED STATES		
Work phone	(b)(6)		
Fax Number:			
Home Number:			
Email:			
Age Range:	30 - 39		

Company

Company: Google.com, Whitepages.com and Intelius.com

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:www.google.com, www.whitepages.com, www.intelius.com

Phone: () Ext:

Company Representative

Associated Company

Transaction

Ref No.: 10388501 Contact Type: Complaint Source: Consumer TCS? Y

Comments: MAIL: The consumer's complaint was forwarded by The Department of Justice. The consumer has a complaint against Google. The consumer states that the company has violated his civil rights by including information in their search results. The consumer didn't provide any other information. The consumer didn't provide a phone #, email address, transaction date or age range. UPDATE MAIL 05/11/07:The consumer is saying something about a MA State Police officer who had no probable cause. He states his constitutional rights were violated. He also says something about his right to sue being blocked and violated. mkphillips

Created By: ASMITLEY Created Date: 04/06/07

Updated By: MPHILLIPS Updated Date: 05/11/07

Org Name: TOLL FREE NUMBER AND CONSUMER SENTINEL

Amt Requested: .00

Amt Paid: .00 Payment Method: Not Reported

Agency Contact: Mail Complaint Date: 01/13/07

Initial Contact: Internet Web Site Transaction Date:

Initial Response: Unknown

Product/Service: Internet Information & Adult Services

Statute/Rule: FTC Act Sec 5 (BCP)

Law Violation: Deception/Misrepresentation

Consumer

Complaining Company/Org.:

Last name: (b)(6)

Address:

City: Boston State: MA Zip: (b)(6)

Country: UNITED STATES

Work phone () Ext:

Fax Number: ()

Home Number: ()

Email:

Age Range:

Company

Company: Google

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company: MA State Police

Address:

City: State: NR Zip:

Country: LOCATION NOT REPORTED

Email: URL:

Phone: () Ext:

Company Representative

Associated Company

DNC Complaint Detail

Number of Complaints Returned: 15

Reference No.	10965539
Complaint Date	07/02/2007
Company Name	google.com
Company State	Iowa
Company Country Code	
Company Phone	(712)9450179
Consumer Name	,
Consumer Address	
Consumer City	
Consumer State	Louisiana
Consumer Zip	
Consumer Phone	(b)(6)
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	07/02/07
Transaction Time (24 hr clock)	17:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10966159
Complaint Date	07/02/2007
Company Name	Google reports a debt consolidator in Arkansas
Company State	Arkansas
Company Country Code	
Company Phone	(870)7721835
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Aiken
Consumer State	South Carolina
Consumer Zip	(b)(6)
Consumer Phone	

Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	07/02/07
Transaction Time (24 hr clock)	17:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10947722
Complaint Date	06/28/2007
Company Name	Google, join the google team home business kit id' 676801137
Company State	
Company Country Code	
Company Phone	()
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Orlando
Consumer State	Florida
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	06/27/07
Transaction Time (24 hr clock)	10:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10943382
Complaint Date	06/27/2007
Company Name	Googled it and came up with this: http://www.nhffoundations.
Company State	Toll Free
Company Country Code	
Company Phone	(b)(6)
Consumer Name	,

Consumer Address	
Consumer City	
Consumer State	Maine
Consumer Zip	
Consumer Phone	(b)(6)
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	06/27/07
Transaction Time (24 hr clock)	13:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10933455
Complaint Date	06/26/2007
Company Name	Google
Company State	
Company Country Code	
Company Phone	()
Consumer Name	(b)(6)
Consumer Address	
Consumer City	bellflower
Consumer State	California
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	06/16/07
Transaction Time (24 hr clock)	09:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10918691
Complaint Date	06/25/2007
Company Name	Google

Company State	
Company Country Code	
Company Phone	()
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Arden
Consumer State	North Carolina
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	06/07/07
Transaction Time (24 hr clock)	Not Reported
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10884155
Complaint Date	06/19/2007
Company Name	Google Merchant Circle
Company State	Toll Free
Company Country Code	
Company Phone	(866)8493243
Consumer Name	(b)(6)
Consumer Address	
Consumer City	
Consumer State	Hawaii
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	06/19/07
Transaction Time (24 hr clock)	10:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor

	grace period.

Reference No.	10836375
Complaint Date	06/12/2007
Company Name	google says telemarketer that has been turned in many times
Company State	Oregon
Company Country Code	
Company Phone	(503)4930142
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Rogers
Consumer State	Arkansas
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	06/12/07
Transaction Time (24 hr clock)	15:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10782585
Complaint Date	06/04/2007
Company Name	googled the number. comes up as Utah Life Science - research
Company State	Utah
Company Country Code	
Company Phone	(801)4879899
Consumer Name	,
Consumer Address	
Consumer City	
Consumer State	Colorado
Consumer Zip	
Consumer Phone	(b)(6)
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry

Complaint Source	WEB
Transaction Date	05/29/07
Transaction Time (24 hr clock)	18:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10782590
Complaint Date	06/04/2007
Company Name	googled the number. comes up as Utah Life Science - research
Company State	Utah
Company Country Code	
Company Phone	(801)4879899
Consumer Name	,
Consumer Address	
Consumer City	
Consumer State	Colorado
Consumer Zip	
Consumer Phone	(b)(6)
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	05/29/07
Transaction Time (24 hr clock)	14:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10782592
Complaint Date	06/04/2007
Company Name	googled the number. comes up as Utah Life Science - research
Company State	Utah
Company Country Code	
Company Phone	(801)4879899
Consumer Name	(b)(6)
Consumer Address	
Consumer City	
Consumer State	Colorado

Consumer Zip	
Consumer Phone	(303)7173924
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	05/28/07
Transaction Time (24 hr clock)	11:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10520083
Complaint Date	04/27/2007
Company Name	Google Tool Kit.com (?)
Company State	Iowa
Company Country Code	
Company Phone	(712)9450186
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Largo
Consumer State	Florida
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	04/27/07
Transaction Time (24 hr clock)	17:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

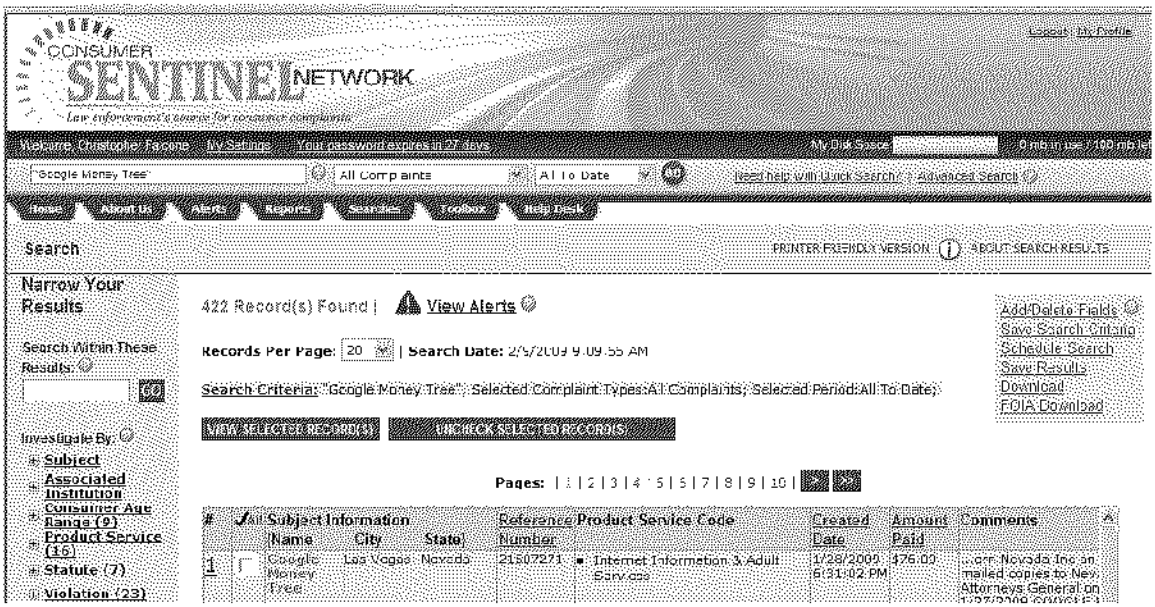
Reference No.	10510649
Complaint Date	04/26/2007
Company Name	GOOGLE THIS NUMBER-THEY BOTHER A LOT OF PEOPLE
Company State	New York
Company Country Code	

Company Phone	(646)2781007
Consumer Name	(b)(6)
Consumer Address	
Consumer City	
Consumer State	New York
Consumer Zip	
Consumer Phone	(b)(6)
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	04/26/07
Transaction Time (24 hr clock)	13:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10506990
Complaint Date	04/25/2007
Company Name	google123biz
Company State	Missouri
Company Country Code	
Company Phone	(417)3599631
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Iselin
Consumer State	New Jersey
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	04/25/07
Transaction Time (24 hr clock)	16:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.

Reference No.	10442207

Complaint Date	04/16/2007
Company Name	Google
Company State	Toll Free
Company Country Code	
Company Phone	(866)7284638
Consumer Name	(b)(6)
Consumer Address	
Consumer City	Southfield
Consumer State	Michigan
Consumer Zip	(b)(6)
Consumer Phone	
Product Service Code	National Do Not Call Registry
Organization	National Do Not Call Registry
Complaint Source	WEB
Transaction Date	04/16/07
Transaction Time (24 hr clock)	11:00
Comments	This phone number was registered for more than 31 days, and therefore was on the Registry for sufficient time such that the call does not qualify for the applicable Do Not Call safe harbor grace period.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Subject
Associated Institution
Consumer Age Range (9)
Product Service (16)
Statute (7)
Violation (23)
422 Record(s) Found |
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Records Per Page: 20 | Search Date: 2/9/2009 9:09:55 AM
Search Criteria: "Google Money Tree"; Selected Complaint Types:All Complaints; Selected Period:All To Date;
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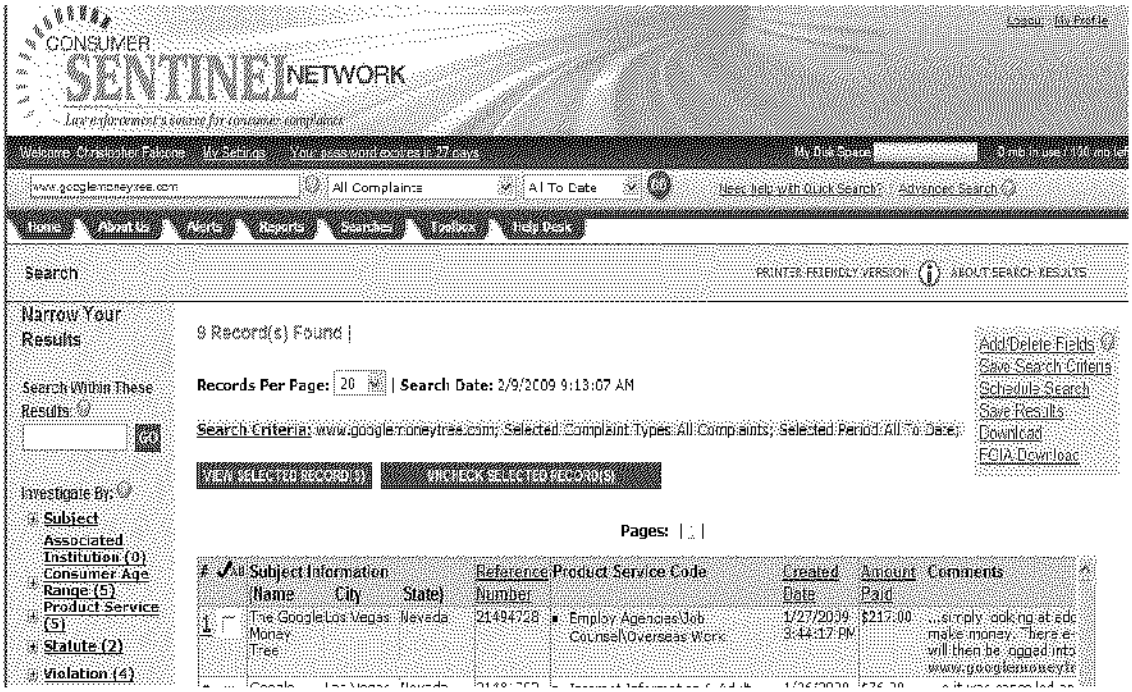
Pages: | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
All
Subject Information (Name City State)
Reference Number
Product Service Code
Created Date
Amount Paid
Comments
1
Google Money Tree Las Vegas Nevada
21507271
Internet Information & Adult Services
1/28/2009 6:31:02 PM
$76.00
...ore Nevada Inc an mailed copies to New Attorneys General on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Subject
Associated Institution (0)
Consumer Age Range (5)
Product Service (5)
Statute (2)
Violation (4)
9 Record(s) Found |
Records Per Page: 20 | Search Date: 2/9/2009 9:13:07 AM
Search Criteria: www.googlemoneytree.com; Selected Complaint Types:All Complaints; Selected Period:All To Date;
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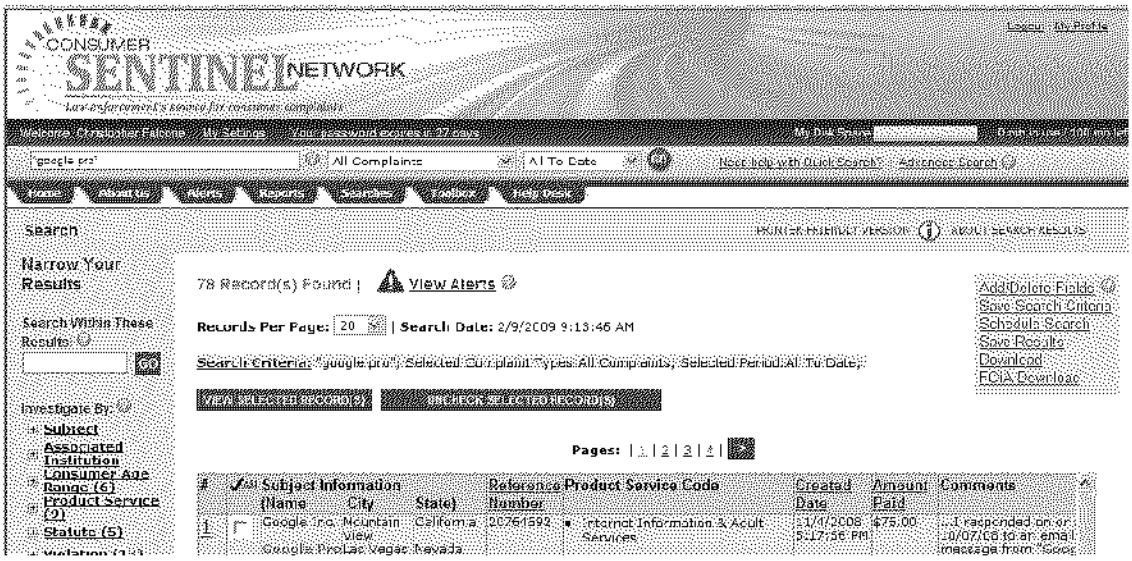
Pages: | 1 |
All
Subject Information (Name City State)
Reference Number
Product Service Code
Created Date
Amount Paid
Comments
1
The Google Money Tree Las Vegas Nevada
21494728
Employ Agencies\Job Counsel\Overseas Work
1/27/2009 9:44:17 PM
$217.00
...simply looking at edc make money. There e- will then be logged into www.googlemoneytr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Product Service (9)
Statute (5)
78 Record(s) Found | View Alerts
Records Per Page: 20 | Search Date: 2/9/2009 9:13:46 AM
Search Criteria: "google pro"; Selected Complaint Types:All Complaints; Selected Period:All To Date;
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Pages: | 1 | 2 | 3 | 4 |
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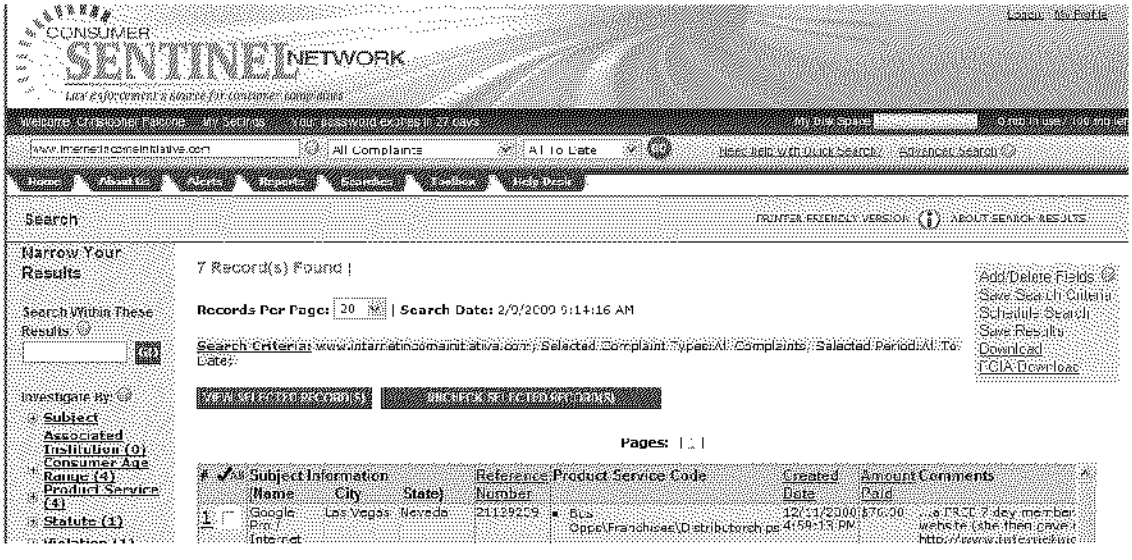
All Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 Google Inc. Mountain View Google ProLac Vegac Nevada California 20761592 Internet Information & Acuit Services 11/1/2008 5:17:56 PM $75.00 ...I responded on or 10/07/08 to an email message from "Goog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Subject
Associated Institution (0)
Consumer Age Range (4)
Product Service (4)
Statute (1)
7 Record(s) Found |
Records Per Page: 20 | Search Date: 2/9/2009 9:14:16 AM
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Pages: | 1 |
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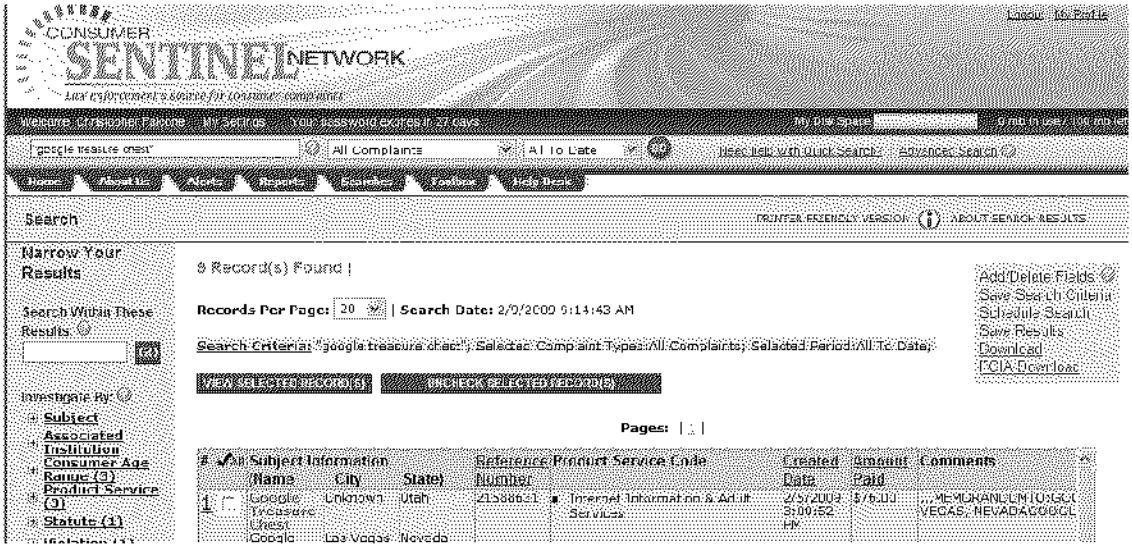
All Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 Google Pro Internet Las Vegas Nevada 21129209 Bus Opps\Franchises\Distributorsh ps 12/11/2000 4:59:19 PM $76.00 ...e FREE 7-day member website (she then gave i http://www.internetconsu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Subject
Associated Institution
Consumer Age Range (3)
Product Service (3)
Statute (1)
9 Record(s) Found |
Records Per Page: 20 | Search Date: 2/9/2009 9:14:43 AM
Search Criteria: "google treasure chest"; Selected Complaint Types:All Complaints; Selected Period:All To Date;
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Pages: | 1 |
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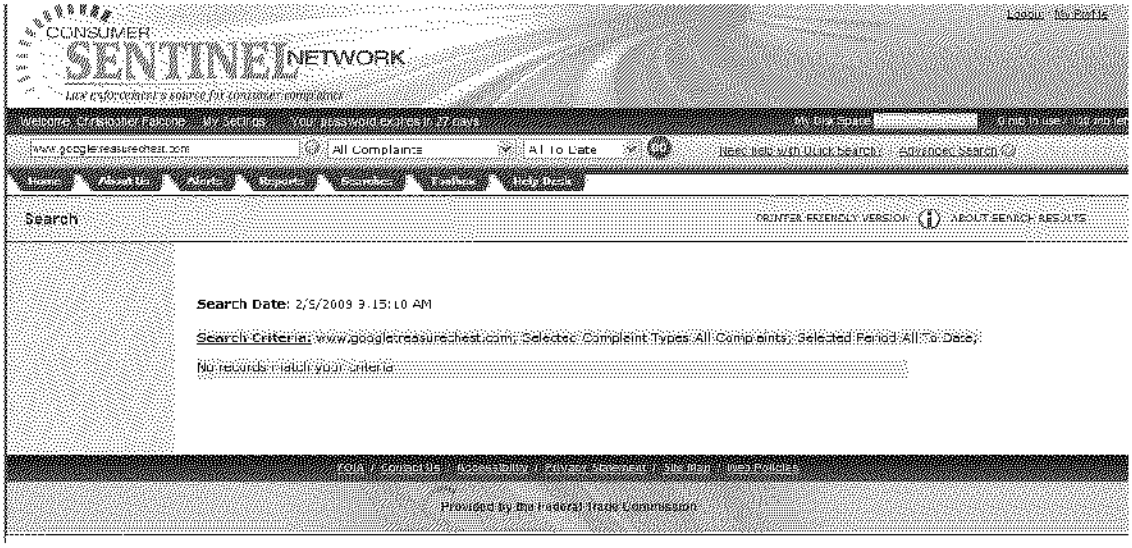
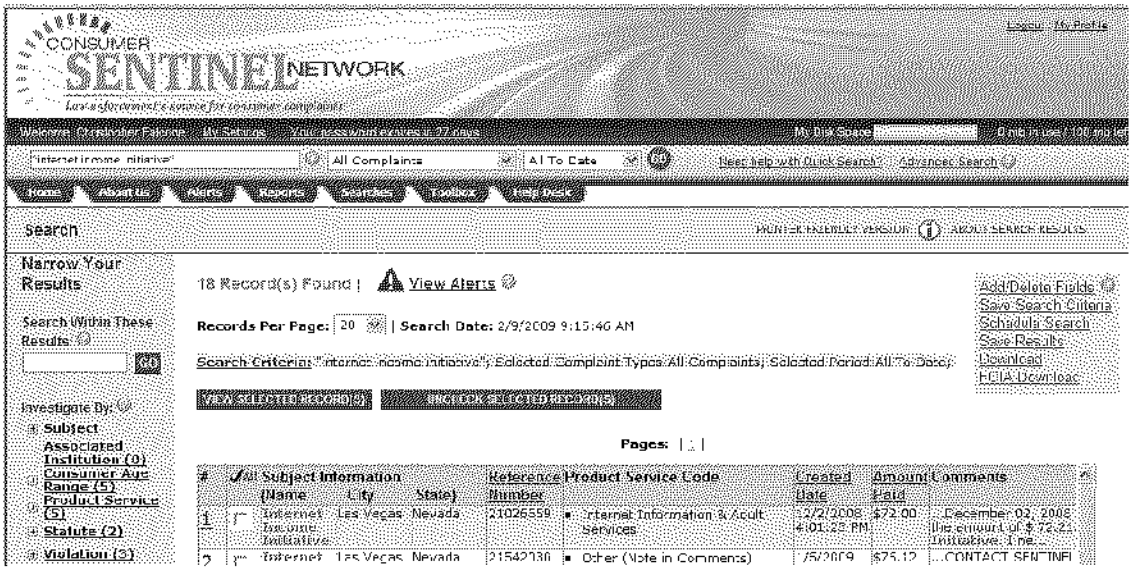
All Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 Google Treasure Chest Google Unknown Las Vegas Utah Nevada 21538621 Internet Information & Audit Services 2/5/2009 8:00:52 PM $6.00 ...MEMORANDUM TO:GOO VEGAS, NEVADAGOOGL





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- Product Service (5)
- Statute (2)
- Violation (3)

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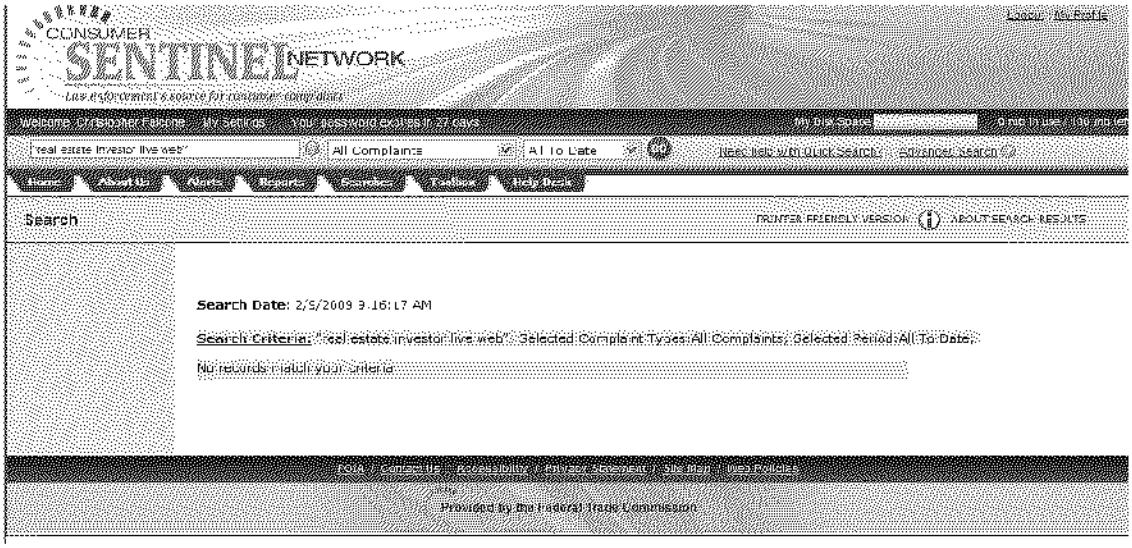
#	All	Subject Information (Name	City	State)	Reference Number	Product Service Code	Created Date	Amount Paid	Comments
1		Internet Income Initiative	Las Vegas	Nevada	21026559	Internet Information & Adult Services	12/2/2008 4:01:23 PM	$72.00	December 02, 2008 The amount of $ 72.21 Initiative. I ne...
2		Internet	Las Vegas	Nevada	21542130	Other (Note in Comments)	/5/2009	$75.12	...CONTACT SENTINEL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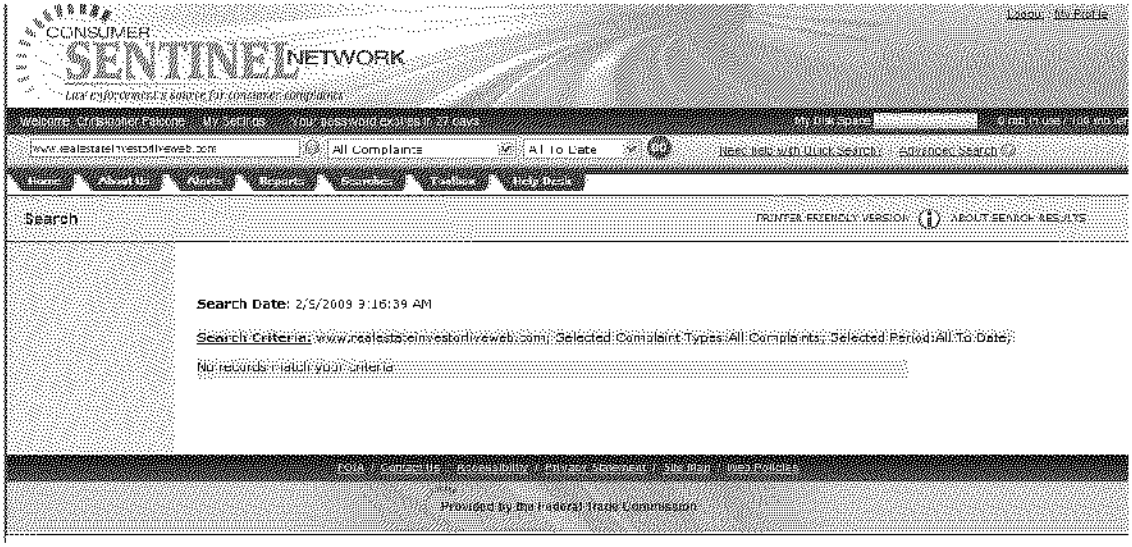
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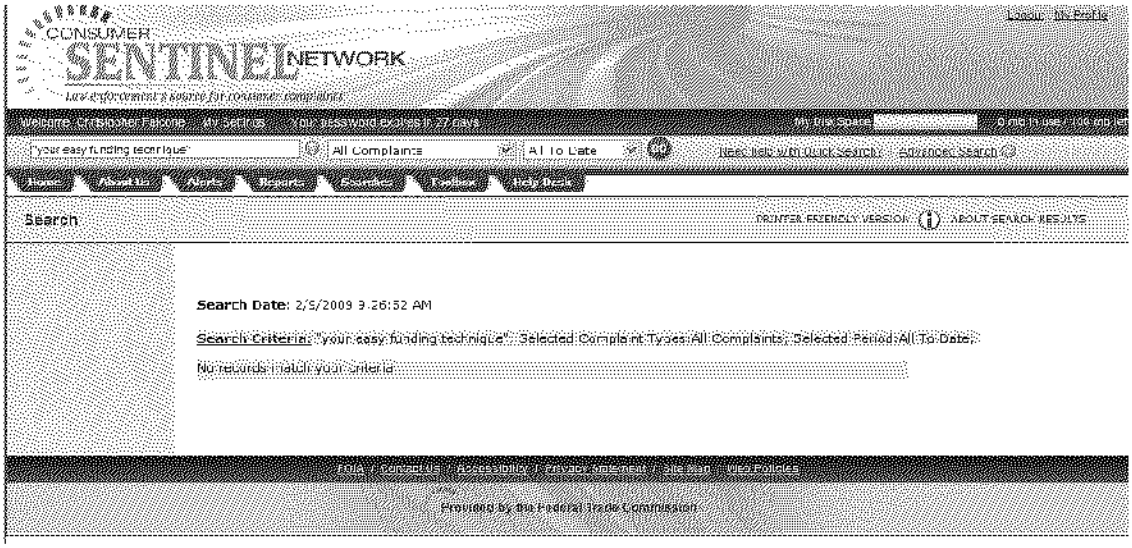
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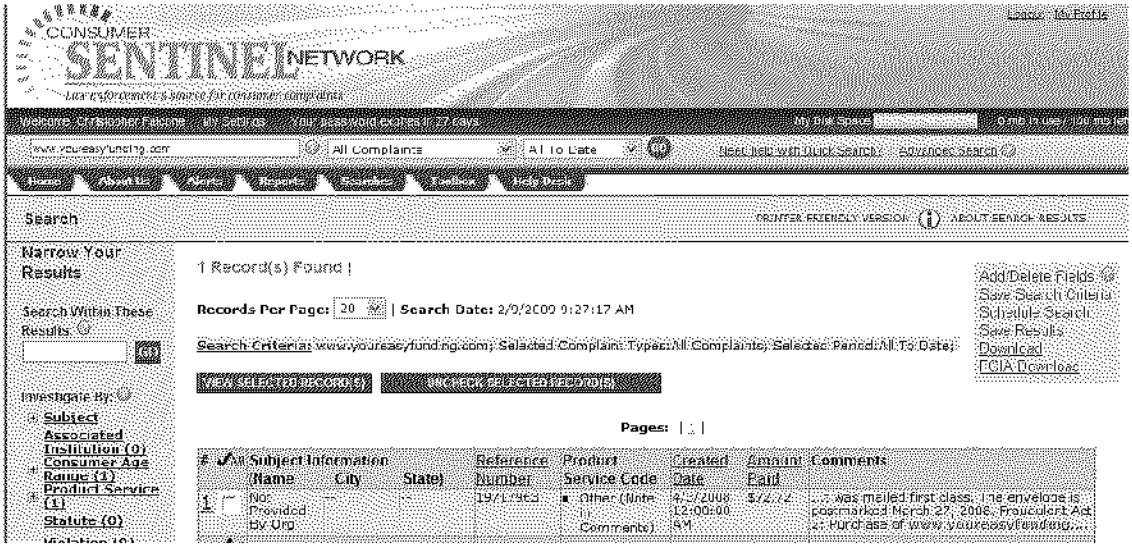
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1 Record(s) Found !
Records Per Page: 20 | Search Date: 2/9/2009 9:27:17 AM
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Pages: | 1 |
Subject Information (Name City State)
Reference Number
Product Service Code
Created Date
Amount Paid
Comments
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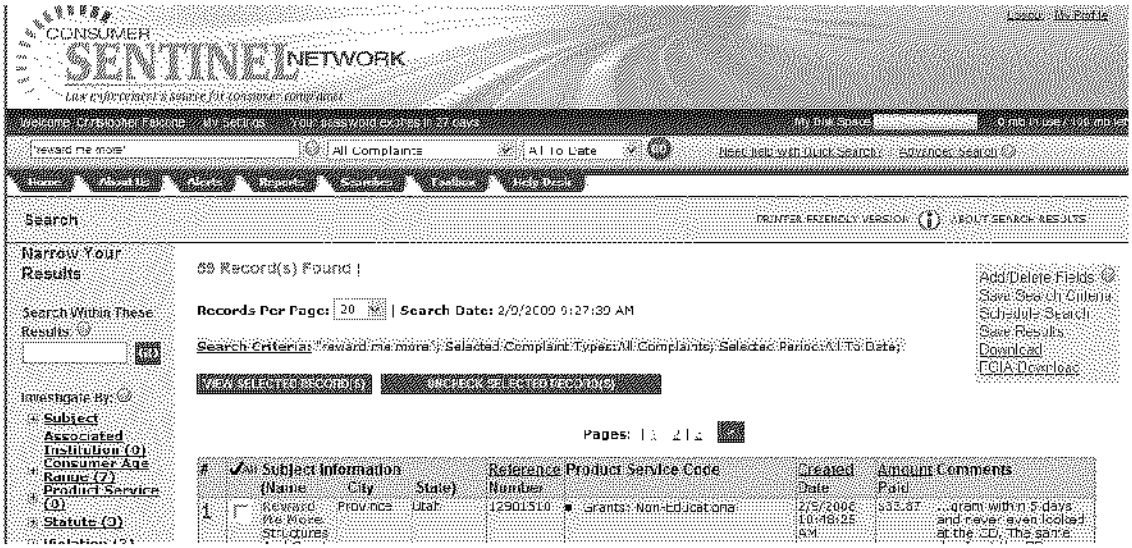
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59 Record(s) Found !
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Product Service Code
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Amount Paid
Comments
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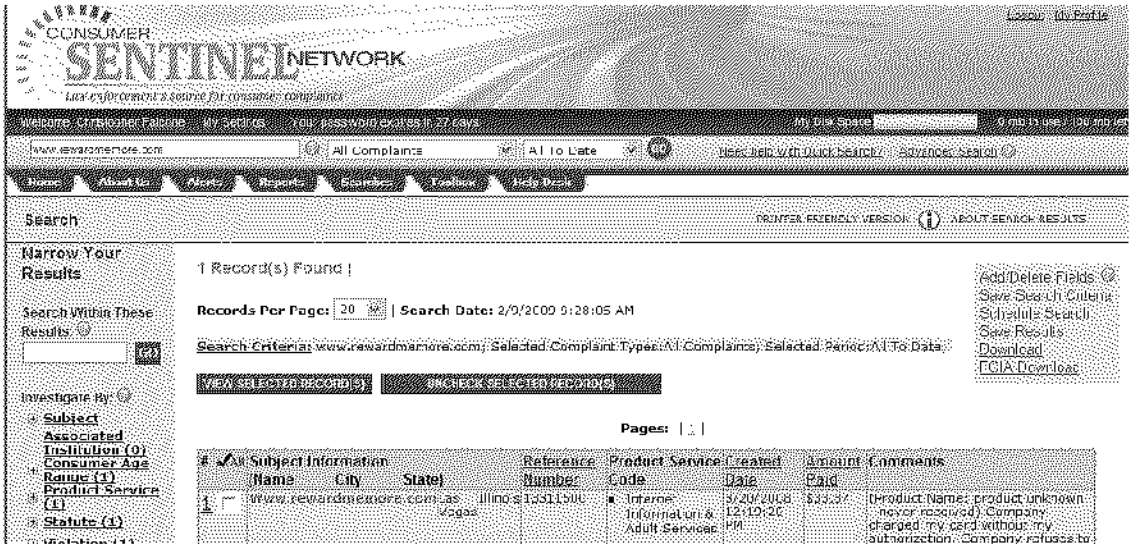
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Product Service (1)
Statute (1)
1 Record(s) Found |
Records Per Page: 20 | Search Date: 2/9/2009 9:28:05 AM
Search Criteria: www.rewardmemore.com; Selected Complaint Types:All Complaints; Selected Period:All To Date;
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Pages: | 1 |
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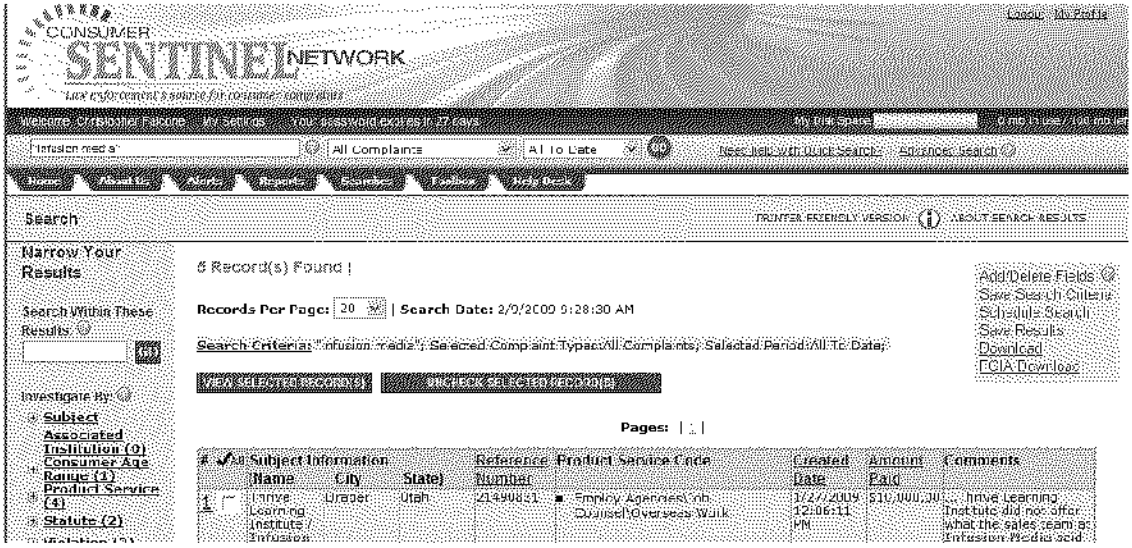
Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 www.rewardmemore.com Las Vegas Illinois 13311500 Internet Information & Adult Services 3/20/2008 12:19:20 PM $33.37 (Product Name: product unknown never received) Company charged my card without my authorization. Company refuses to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Associated Institution (0)
Consumer Age Range (1)
Product Service (4)
Statute (2)
5 Record(s) Found |
Records Per Page: 20 | Search Date: 2/9/2009 9:28:30 AM
Search Criteria: "infusion media"; Selected Complaint Types:All Complaints; Selected Period:All To Date;
VIEW SELECTED RECORD(S)
UNCHECK SELECTED RECORD(S)
Pages: | 1 |
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Save Search Criteria
Schedule Search
Save Results
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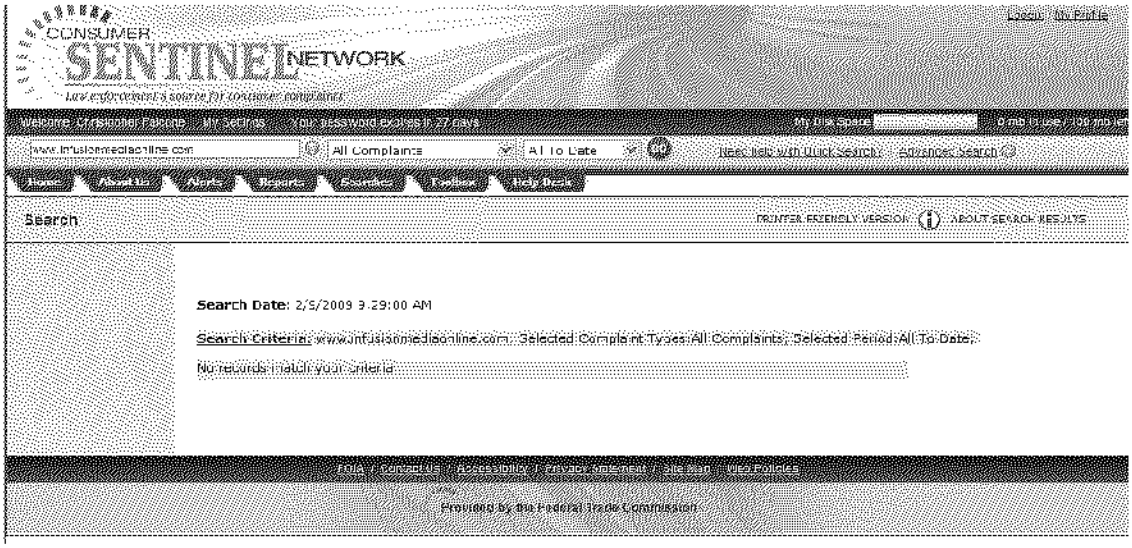
Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 Thrive Learning Institute / Infusion Draper Utah 21490821 Employ Agencies\Job Counsel\Overseas Work 1/27/2009 12:06:11 PM $10,000.00 ... Thrive Learning Institute did not offer what the sales team at Infusion Media said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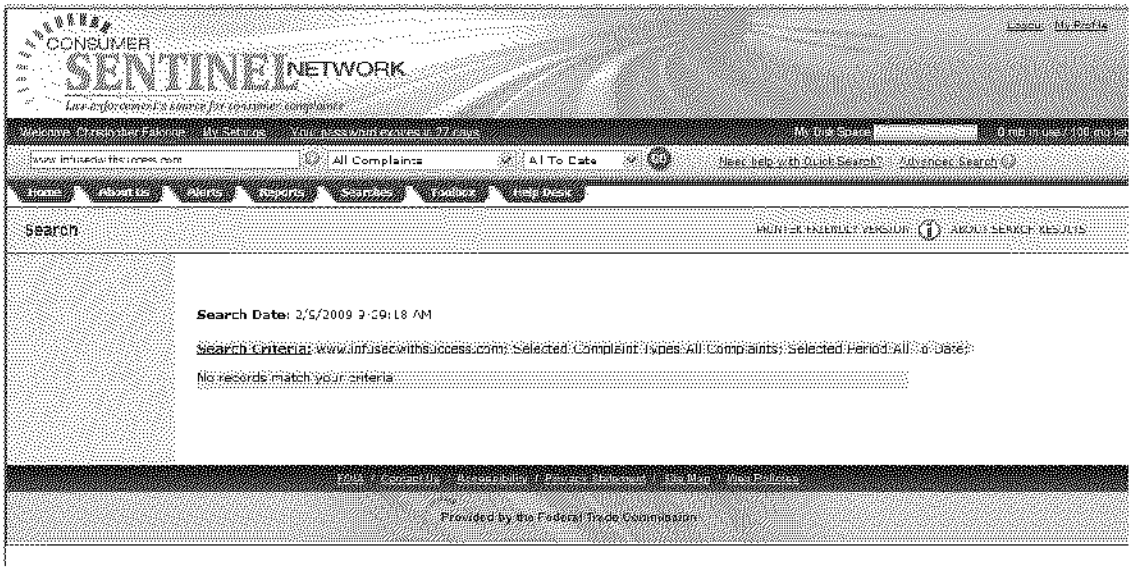
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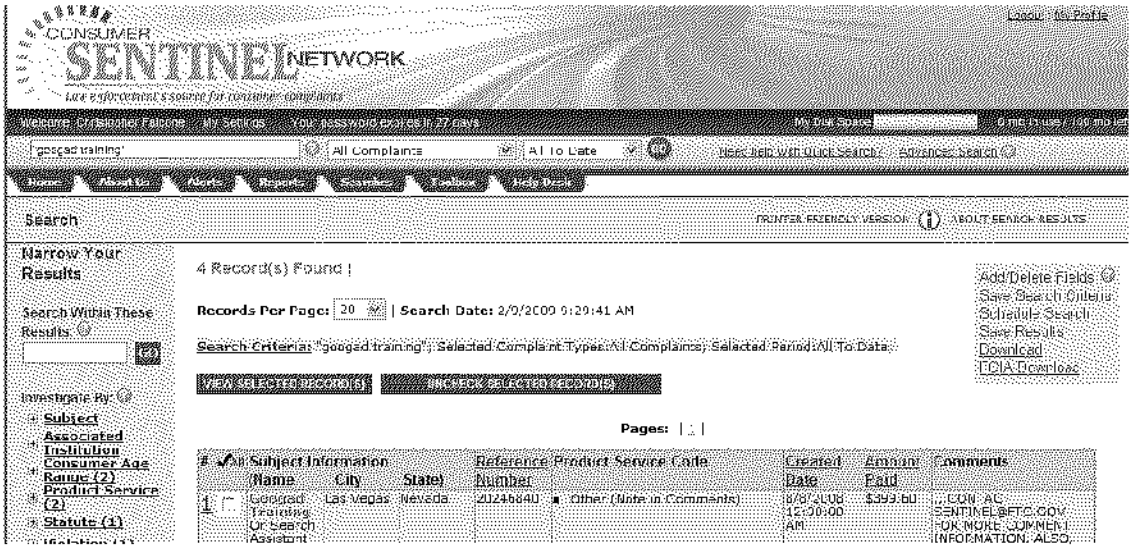
My Disk Space
0 mb in use / 100 mb left
www.infusecwithsuccess.com
All Complaints
All To Date
Need help with Quick Search? | Advanced Search
Home | Reports | Query | Search | Complaints | Contacts | Help Desk
Search
PRINTER FRIENDLY VERSION | ABOUT SEARCH RESULTS
Search Date: 2/9/2009 9:29:18 AM
Search Criteria: www.infusecwithsuccess.com; Selected Complaint Types: All Complaints; Selected Period: All To Date;
No records match your criteria
Privacy Procedures | Privacy Policy | Terms of Service | Site Map | Privacy Policies
Provided by the Federal Trade Commission


CONSUMER SENTINEL NETWORK
Law enforcement's source for consumer complaints
Logout | My Profile
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"googed training"
All Complaints
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Need help with Quick Search? | Advanced Search
Home | Reports | Query | Search | Complaints | Contacts | Help Desk
Search
PRINTER FRIENDLY VERSION | ABOUT SEARCH RESULTS
Narrow Your Results
Search Within These Results
Investigate By:
Subject
Associated Institution
Consumer Age
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Statute (1)
4 Record(s) Found !
Records Per Page: 20 | Search Date: 2/9/2009 9:29:41 AM
Search Criteria: "googed training"; Selected Complaint Types: All Complaints; Selected Period: All To Date;
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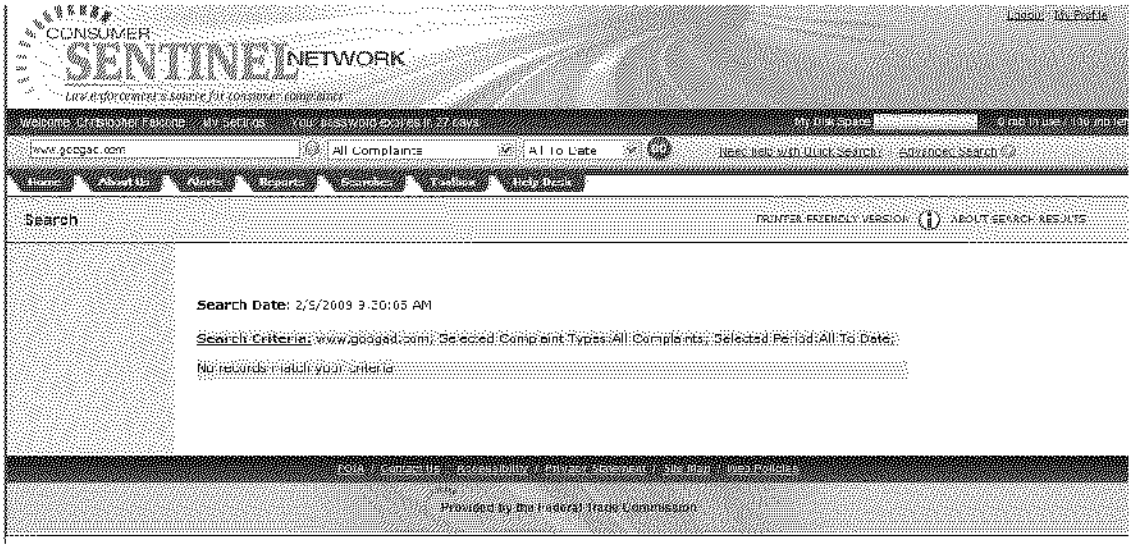
| All | Subject Information (Name | City | State) | Reference Number | Product Service Code | Created Date | Amount Paid | Comments
1 | Googled Training Or Search Assistant | Las Vegas | Nevada | 20246840 | Other (Note in Comments) | 8/8/2008 12:00:00 AM | $399.00 | CON: AC SENTINEL@FTC.GOV OK MORE COMMENT INFORMATION: ALSO,


CONSUMER SENTINEL NETWORK
Law enforcement's source for consumer complaints
Logout My Profile
Welcome Christopher Falcone My Settings Your password expires in 27 days
My Disk Space
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www.googad.com
All Complaints
All To Date
Need help with Quick Search? Advanced Search
Home About Us Alerts Reports Searches Toolbox Help Desk
Search
PRINTER FRIENDLY VERSION ABOUT SEARCH RESULTS
Search Date: 2/5/2009 9:30:05 AM
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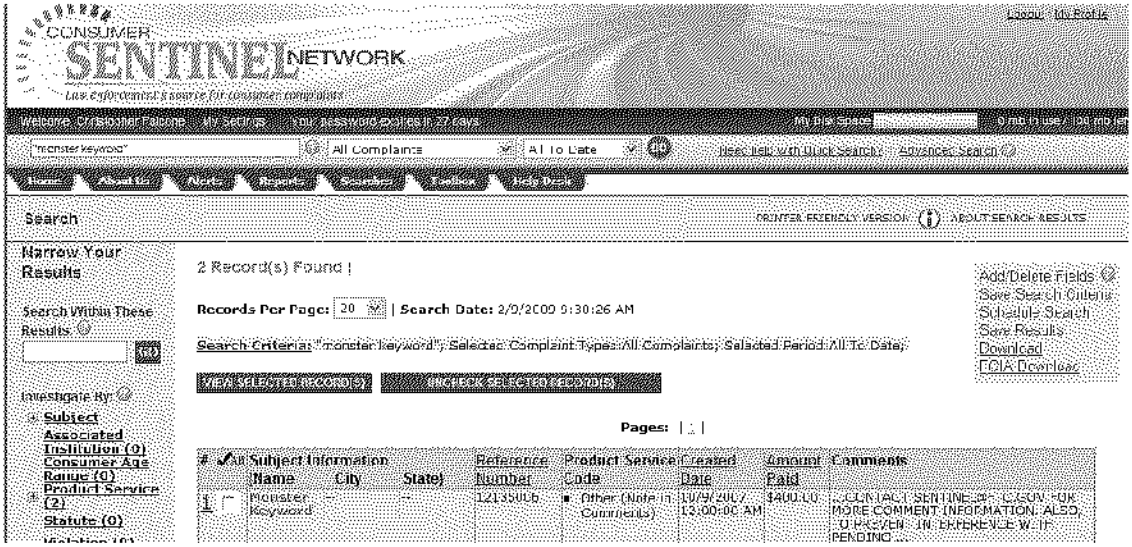
No records match your criteria
Provided by the Federal Trade Commission


CONSUMER SENTINEL NETWORK
Law enforcement's source for consumer complaints
Logout My Profile
Welcome Christopher Falcone My Settings Your password expires in 27 days
My Disk Space
0 mb in use / 100 mb
"monster keyword"
All Complaints
All To Date
Need help with Quick Search? Advanced Search
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Records Per Page: 20 | Search Date: 2/9/2009 9:30:26 AM
Search Criteria: "monster keyword"; Selected Complaint Types:All Complaints; Selected Period:All To Date;
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Schedule Search
Save Results
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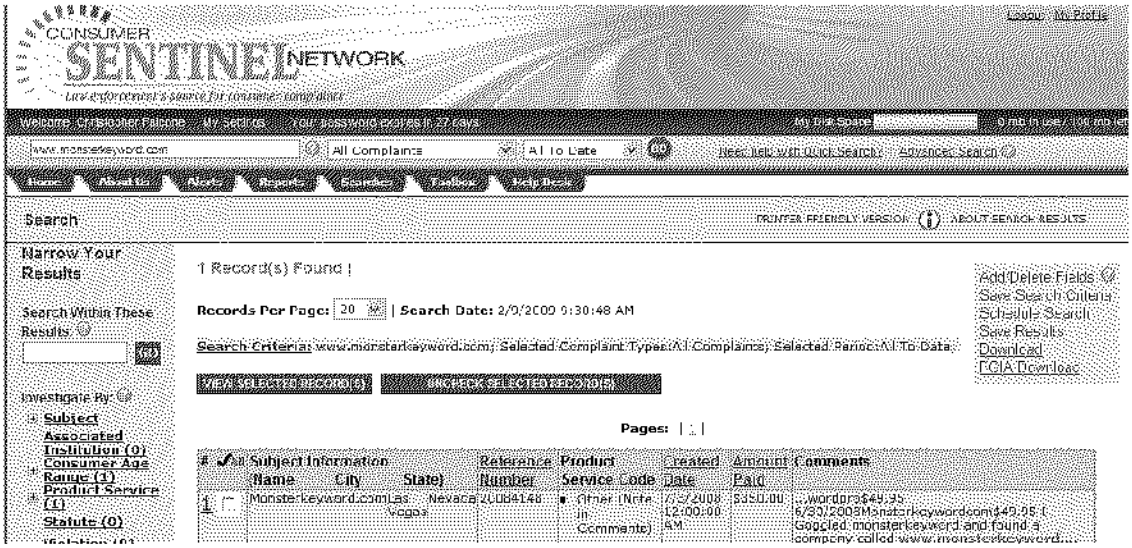
All Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 Monster Keyword - - 12135006 Other (Note in Comments) 10/9/2007 12:00:00 AM $400.00 ...CONTACT SENTINEL@FTC.GOV FOR MORE COMMENT INFORMATION. ALSO, I'D PREVENT IN EFFERENCE WITH PENDING ...


CONSUMER SENTINEL NETWORK
Law enforcement's source for consumer complaints
Logout My Profile
Welcome Christopher Falcone My Settings Your password expires in 27 days
My Disk Space
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www.monsterkeyword.com
All Complaints
All To Date
Need help with Quick Search? Advanced Search
Home About Us Alerts Reports Searches Toolbox Help Desk
Search
PRINTER FRIENDLY VERSION ABOUT SEARCH RESULTS
Narrow Your Results
Search Within These Results
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Product Service (1)
Statute (0)
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Schedule Search
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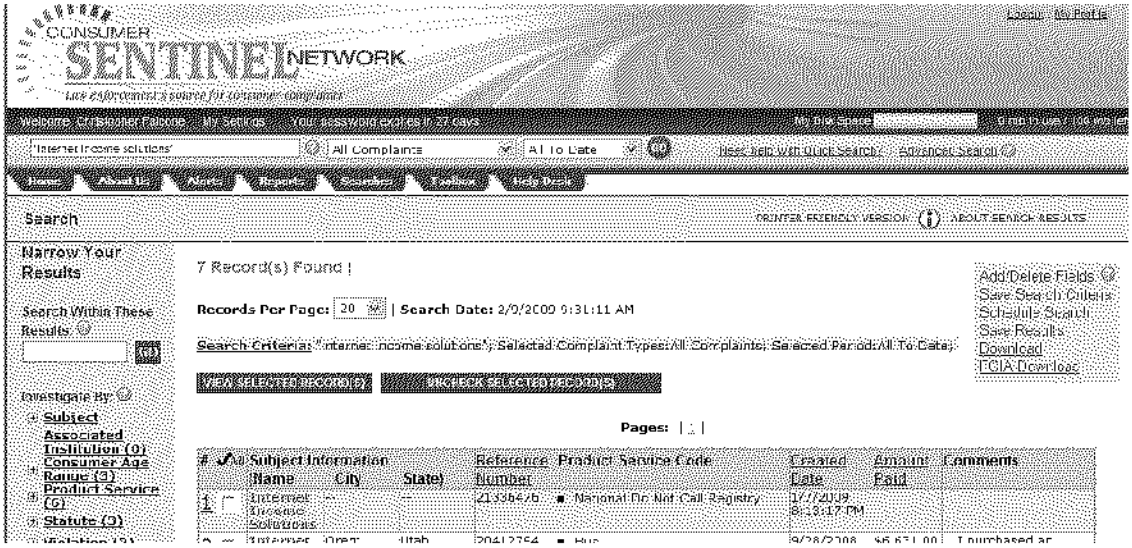
All Subject Information (Name City State) Reference Number Product Service Code Created Date Amount Paid Comments
1 Monsterkeyword.com Las Vegas Nevada 20084148 Other (Note in Comments) 7/3/2008 12:00:00 AM $350.00 ...wordpro$49.95 6/30/2008Monsterkeywordcom$49.95 (Googled monsterkeyword and found a company called www.monsterkeyword....


CONSUMER SENTINEL NETWORK
Search
Narrow Your Results
7 Record(s) Found |
Records Per Page: 20 | Search Date: 2/9/2009 9:31:11 AM
Search Criteria: "internet income solutions"; Selected Complaint Types: All Complaints; Selected Period: All To Date;
Add/Delete Fields
Save Search Criteria
Schedule Search
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Download
FCIA Download
Pages: | 1 |
Subject Information
Name
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State)
Reference Number
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Internet Income Solutions
National Do Not Call Registry
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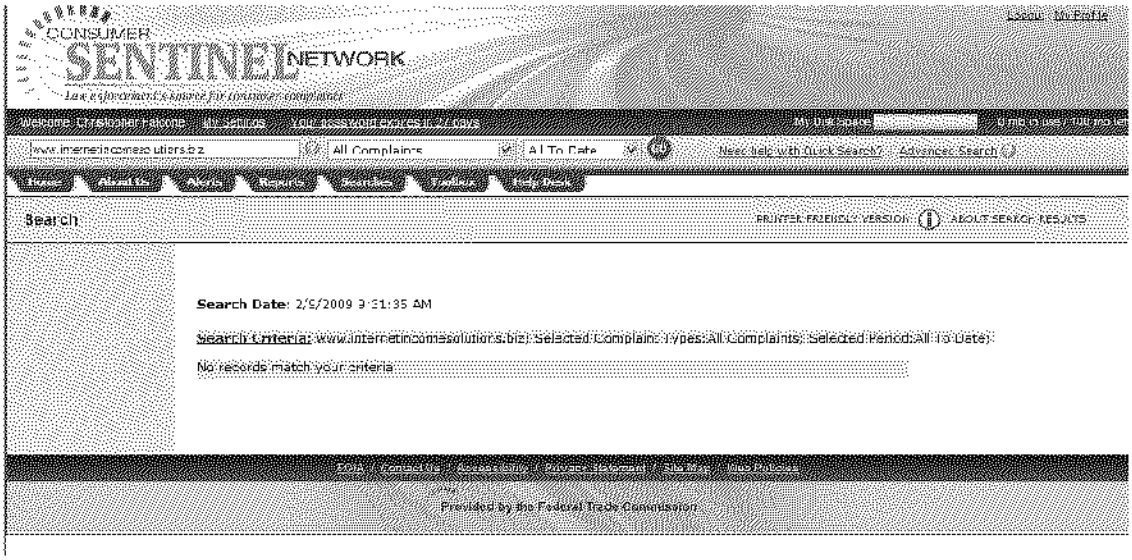
CONSUMER SENTINEL NETWORK
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Search Date: 2/9/2009 9:31:35 AM
Search Criteria: www.internetincomesolutions.biz; Selected Complaint Types: All Complaints; Selected Period: All To Date;
No records match your criteria
Provided by the Federal Trade Commission

Olsen, Christopher

From: Olsen, Christopher
Sent: Friday, October 22, 2010 12:16 PM
To: Eichorn, Mark
Subject: Fw: question about Google

She is a good friend from the FCC who works in enforcement.

From: Suzanne Tetreault <Suzanne.Tetreault@fcc.gov>
To: Olsen, Christopher
Sent: Fri Oct 22 12:05:37 2010
Subject: question about Google

Hi Chris – I left you a voice mail on this as well. I talked to Katie Brin back in August about the Google "Spy-Fi" matter, and am trying to get an update (hopefully before 4 pm) on the status of what you all are doing (or not doing). I left her a message yesterday, and called again today and got her voice mail again – I'm just wondering if there's someone else I can talk to, or whether you might know of the status. Any help you can provide would be much appreciated.

Thanks – hope you're doing well,
Suzanne

(b)(6)

Olsen, Christopher

From: Olsen, Christopher
Sent: Wednesday, October 27, 2010 12:19 PM
To: Ratte, Kathryn D.
Subject: RE: FTC to Google re Wi-Fi data capture: case closed

Ok. no problem.

From: Ratte, Kathryn D.
Sent: Wednesday, October 27, 2010 12:10 PM
To: Olsen, Christopher
Subject: Re: FTC to Google re Wi-Fi data capture: case closed

That was it.

From: Olsen, Christopher
To: Ratte, Kathryn D.
Sent: Wed Oct 27 12:04:03 2010
Subject: Re: FTC to Google re Wi-Fi data capture: case closed

What's the quote - I just see a hat tip reference.

From: Ratte, Kathryn D.
To: Olsen, Christopher
Sent: Wed Oct 27 12:02:11 2010
Subject: Fw: FTC to Google re Wi-Fi data capture: case closed

Soghoian quoted below. Hope this doesn't give you heartburn.

From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Wed Oct 27 11:53:06 2010
Subject: FTC to Google re Wi-Fi data capture: case closed

http://www.pogowasright.org/?p=16489

I like the source at the bottom

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Young, June

From: JDL
Sent: Tuesday, May 18, 2010 2:30 PM
To: Prewett, Cecelia; Davis, Robert; Feinstein, Richard; Armstrong, Norman
Cc: Lupovitz, Joni
Subject: RE: WSJ: FTC Likely to Examine Google's Wireless Gaffe

and maybe facebook--one of the folks who works for them sent it to me

---

From: Prewett, Cecelia
Sent: Tuesday, May 18, 2010 10:39 AM
To: Davis, Robert; JDL; Feinstein, Richard; Armstrong, Norman
Cc: Lupovitz, Joni
Subject: Re: WSJ: FTC Likely to Examine Google's Wireless Gaffe

Its also Microsoft and yahoo which probably funds the consumer group making complaint

---

From: Davis, Robert
To: Prewett, Cecelia; JDL; Feinstein, Richard; Armstrong, Norman
Cc: Lupovitz, Joni
Sent: Tue May 18 10:37:41 2010
Subject: Re: WSJ: FTC Likely to Examine Google's Wireless Gaffe

Cool!

From: Prewett, Cecelia
To: Davis, Robert; JDL; Feinstein, Richard; Armstrong, Norman
Cc: Lupovitz, Joni
Sent: Tue May 18 10:36:52 2010
Subject: Re: WSJ: FTC Likely to Examine Google's Wireless Gaffe

You're right--i have since tracked down...more offline

From: Davis, Robert
To: Prewett, Cecelia; JDL; Feinstein, Richard; Armstrong, Norman
Cc: Lupovitz, Joni
Sent: Tue May 18 10:35:41 2010
Subject: Re: WSJ: FTC Likely to Examine Google's Wireless Gaffe

Could it be Google feeding him here? Might they want to say that the FTC is looking at this so the Europeans should wait and see (and maybe calm down)? Just another diabolical press theory.

From: Prewett, Cecelia
To: JDL; Feinstein, Richard; Armstrong, Norman
Cc: Davis, Robert; Lupovitz, Joni
Sent: Tue May 18 08:49:51 2010
Subject: WSJ: FTC Likely to Examine Google's Wireless Gaffe

WHO IS FEEDING HIM?!?!

THE WALL STREET JOURNAL.
WSJ.com

- TECHNOLOGY
- MAY 18, 2010

FTC Likely to Examine Google's Wireless Gaffe

By THOMAS CATAN And JESSICA E. VASCELLARO

The U.S. Federal Trade Commission is likely to open a preliminary inquiry into Google Inc.'s disclosure that it accidentally harvested data from unsecured wireless networks for several years, several people familiar with the matter said.

The process is at an embryonic stage and whether the FTC has begun gathering information from other parties about the incident remains unclear. Any resulting investigation wouldn't necessarily lead to action. But if the FTC decides to pursue, it would be the latest federal inquiry to examine the Internet search giant's behavior.

The FTC's Bureau of Competition is currently deciding whether to challenge Google's proposed $750 million takeover of mobile advertising company AdMob Inc. At the same time, the FTC's consumer protection arm is conducting a wide-ranging review of the ways in which online companies collect and employ data about their users' online behavior.

In this case, the Bureau of Consumer Protection is the most likely part of the FTC to be tasked with investigating whether the behavior detailed in Google's latest admission broke any laws.

An FTC spokeswoman declined to comment. A Google spokeswoman also declined to comment beyond the company's blog post Friday.

In it, the company said it had discovered that the roving cars it uses to create its online mapping services were inadvertently gathering data from people's web use over "Wi-Fi" networks without passwords.

Google said it was "reaching out to regulators in the relevant countries about how to quickly dispose" of the data the company had collected. The post also said that Google would ask a third-party to review the software and what data it gathered.

On Monday, Google updated its blog post saying it had started to erase some of the data it said it had inadvertently collected in Ireland after the Irish Data Protection Authority requested it do so. If the FTC opens a formal investigation, some legal experts said they would probably ask that

Google preserve the relevant data.

Consumer advocacy group Consumer Watchdog said Monday it was sending the FTC a letter urging the agency to investigate the mishap. John Simpson, the group's consumer advocate, said he was concerned that Google's promise to get third-parties to review the software in question was insufficient.

Other privacy advocates said it was unclear whether the FTC was the correct agency to review the matter and that they would wait to see how European authorities—who have been scrutinizing Google's collection of Wi-Fi information for months—reacted before deciding whether to petition U.S. regulators to intervene.

Write to Thomas Catan at thomas.catan@wsj.com and Jessica E. Vascellaro at jessica.vascellaro@wsj.com

---

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
202.326.3220 desk
202.758.7598 cell & berry

Young, June

From: Rich, Jessica L.
Sent: Thursday, July 08, 2010 11:08 AM
To: Rich, Jessica L.; JDL; Lupovitz, Joni; Prewett, Cecelia
Cc: Young, June; Anderson, Emily L.; Stevenson, Hugh G.; Kades, Michael B.; DeLorme, Christine L.; Matties, Deborah J.; Ratte, Kathryn D.; Mithal, Maneesha; Vladeck, David; Kaufman, Daniel
Subject: RE: Diane Bartz

Here's the report from Katie Ratte, the lead attorney on the case:

(b)(5)

Please let me know if you need any more information about this.
Katie

From: Rich, Jessica L.
Sent: Thursday, July 08, 2010 8:57 AM
To: JDL; Lupovitz, Joni; Prewett, Cecelia
Cc: Young, June; Anderson, Emily L.; Stevenson, Hugh G.; Kades, Michael B.; DeLorme, Christine L.; Matties, Deborah J.
Subject: RE: Diane Bartz

Let me get the details on that from DPIP and get back to you. (It would indeed be nonpublic.)

From: JDL
Sent: Wednesday, July 07, 2010 8:44 PM
To: Lupovitz, Joni; Prewett, Cecelia
Cc: Young, June; Anderson, Emily L.; Stevenson, Hugh G.; Rich, Jessica L.; Kades, Michael B.; DeLorme, Christine L.; Matties, Deborah J.
Subject: Re: Diane Bartz

I called her tonight--we agreed to talk tomorrow. She is interested in pfd any any "coordination" we're doing with the EU on google wifi. (I would be interested in knowing the answer but I'm not going to confirm anything.)
June, please route Diane thru Cecelia (because otherwise she thinks she has an automatic bypass).
Thanks.
Jon

From: Lupovitz, Joni
To: Prewett, Cecelia
Cc: JDL; Young, June; Anderson, Emily L.

Sent: Wed Jul 07 20:15:53 2010
Subject: Diane Bartz

Hi – I have a take-home package for JDL and noticed on his call sheet that Diane Bartz called re PFD and FTC international cooperation.

Cecelia -- I'm not sure whether June or Emily forwarded this message to you, so just wanted to be sure you have it. (This should have been forwarded to OPA, but I didn't see it on OPA's call log).

I just got off the phone with JDL and he will try to give Diane a call....

Joni Lupovitz
Chief of Staff
Office of Chairman Leibowitz
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-3743

Young, June

From: JDL
Sent: Thursday, August 12, 2010 7:30 PM
To: JDL
Subject: FW: Google all over

From: JDL
Sent: Friday, July 16, 2010 8:09 PM
To: 'HRosen@brunswickgroup.com'
Subject: Re: Google all over

Saw the FT while on the treadmill at the gym and of course the nyt.
Not Responsive
Xoxo
Jon

From: Hilary Rosen <HRosen@brunswickgroup.com>
To: JDL
Sent: Fri Jul 16 15:52:01 2010
Subject: Google all over

Jon:

As you may have seen, there has been some very important media coverage this week raising concerns about Google's growing dominance over the Internet. I thought it would be helpful to pull several of these pieces together for you and have attached them here.
[If you want to explain further, the following is a quick summary of the week's coverage.]

The *Financial Times* published an influential series on what it called The Google Economy, focusing on serious issues related to Google's dominance, lack of transparency in how its business works and self-serving stance on issues like net neutrality. On Friday, *POLITICO* published Google searches for path in D.C., a piece by Kim Hart that raises real questions about whether, given Google CEO Eric Schmidt's political influence, the federal government, and especially the Obama administration, will effectively regulate Google's increasing control over Internet businesses.

A attached *New York Times* editorial, The Google Algorithm, also calls attention to Google's gate-keeping role on the internet. The piece examines Google's "supersecret algorithm" and its potential impact on its competitors.

These articles come on the heels of Google's planned acquisition of ITA software, which an attached *Associated Press* piece explains (Google Buys Travel Software Company for $700M). This is raising major questions about whether Google will unduly dominate the travel information and other sectors, as Barry Diller of ICA / Interactive Corps noted in the attached *Financial Times* piece, Diller calls Google travel deal 'disturbing'. A recent editorial in the FT, Google should be watched carefully, also addresses ITA, suggesting European and US regulators should use the ITA deal to examine the potential concerns for antitrust abuse through the tying of vertical services to search.

At the same time, as you know, there has been deepening regulatory scrutiny around the world of Google's unauthorized collection of Wi-Fi data for its Street View business, about which the attached *Seattle Times* editorial,

Google needs to stop snooping, raises serious questions.

Happy reading!
xo,
Hilary

News Coverage: July 2010

I. POLITICO
Google searches for path in D.C.
By Kim Hart
July 16, 2010

II. Financial Times
Editorial: Google should be watched carefully
July 15, 2010

III. New York Times
Editorial: The Google Algorithm
July 14, 2010

IV. Financial Times Lex
Google: unanswered questions
July 14, 2010

V. Financial Times
Net neutrality comes back to haunt Google
By Richard Waters
July 13, 2010

VI. Financial Times
Searching questions over company's technology
By Richard Waters in San Francisco
July 13, 2010

VII. Seattle Times
Editorial: Google needs to stop snooping
July 12, 2010

VIII. Financial Times
Sinister take on search engine optimisation
By Joseph Menn in San Francisco
July 12, 2010

IX. Financial Times
Unrest over Google's secret formula
By Richard Waters in San Francisco
July 11, 2010

X. Financial Times
Diller calls Google travel deal 'disturbing'

By Richard Waters in San Francisco
July 11, 2010

XI. Financial Times
Services attract complaints of favouritism
By Richard Waters in San Francisco
July 11, 2010

XII. Associated Press
Google Buys Travel Software Company for $700M
July 1, 2010

POLITICO
Google searches for path in D.C.
By Kim Hart
July 16, 2010

Google's aggressive tactics have put it on top of the business world, and now the Internet giant is looking to leverage the high profile and sterling connections of its CEO to achieve similar power in the political sphere.

Google boss Eric Schmidt is one of the nation's most politically active business leaders — a man who uses the cachet of the company he leads, as well as his own charisma, to build strategic alliances in the Obama administration and on Capitol Hill.

Google CEO Eric Schmidt's connections have given the company access to the inner circles of Washington.
AP

Schmidt, 55, grew up in Washington and returns frequently to visit his mother, who still lives in Northern Virginia. Those trips often double as chances to meet with President Barack Obama, chat with staffers at the Federal Communications Commission and meet with top lawmakers.

Schmidt's newly formed friendships in town have helped transform Google from a D.C. outsider into an Obama administration darling with growing clout in policy circles.

But the company's increasing influence is at risk of a Washington backlash from politicians and competitors, some of whom said Google's vast reach is raising privacy, antitrust and other concerns.

"I've been concerned about Google's role in the political system because they've learned how to lobby very effectively" using both traditional and nontraditional means, said Marc Rotenberg, executive director of the Electronic Privacy Information Center. "When the attention turns to them, it's really remarkable the influence that they have."

Schmidt has worked to forge relationships with a number of key members of Congress, giving generously to their campaigns and attending their fundraisers.

He recently hosted fundraisers for Senate Majority Leader Harry Reid (D-Nev.) and Sens. Mark Warner (D-Va.) and Orrin Hatch (R-Utah). In June, Google hosted a National Republican Senatorial Committee fundraiser for Senate Minority Leader Mitch McConnell (R-Ky.) and Sen. Mike Enzi (R-Wyo.).

This year, he's written $4,800 checks to both Senate Democrats from New York, Chuck Schumer and Kirsten Gillibrand. New York, of course, is the center of the advertising industry, which is now inexorably tied to Google's dominant online ad platform.

In 2009, Schmidt gave $1,000 each to Reps. John Garamendi (D-Calif.) and Bob Goodlatte (R-Va.) and $2,400 to Rep. Anna Eshoo (D-Calif.), whose district includes Google's Mountain View headquarters.

And Schmidt wrote $10,000 checks to both the Democratic Senatorial Campaign Committee and the National Republican Senatorial Committee.

Altogether, Schmidt has made $34,000 in personal donations for the 2010 elections, compared with $60,200 during the 2008 election cycle, according to the Center for Responsive Politics.

It is not uncommon for the CEOs of high-profile companies to develop ties in Washington to benefit their business, and Schmidt is certainly not the only one in the tech and telecom industries to do so.

Verizon CEO Ivan Seidenberg leads the influential Business Roundtable and frequently gets an audience with the president, for instance. Just last month, Comcast CEO Brian Roberts, who is trying to get approval for his $30 billion acquisition of NBC Universal, had lunch with Obama at the White House. Cisco CEO John Chambers and Oracle CEO Larry Ellison have already surpassed Schmidt in political giving this cycle.

Google critics and supporters agreed that Schmidt has been especially savvy at gaining a seat at the table for some of the most important policy discussions not only for his industry but for the entire U.S. economy.

In fact, Google has become such a powerful player in the political and business worlds that most people contacted for this story refused to speak on the record about their concerns.

Unlike Microsoft and some other technology companies, Google did not go through a long period in which it treated Washington with disdain. The company quickly saw opportunities in Washington and has steadily beefed up its presence in the city, more than doubling its lobbying spending over the past three years.

But even lawmakers who have been beneficiaries of Schmidt's political generosity have started to cast a skeptical eye in Google's direction.

Rep. Ed Markey (D-Mass.), a senior member of the House Energy and Commerce Committee, which has jurisdiction over the Internet industry, recently sent a letter to Schmidt, reprimanding Google for accidentally harvesting data from private Wi-Fi networks. The committee's chairman and ranking member — Reps. Henry Waxman (D-Calif.) and Joe Barton (R-Texas), respectively — asked the Federal Trade Commission to look into the matter.

Google's privacy blunder also became a campaign issue for Richard Blumenthal, the Connecticut attorney general who is running for Sen. Chris Dodd's seat. He's now leading a 30-state probe into the matter.

Competitors worry that the strategic roles Schmidt and a coterie of ex-Googlers play within the administration and Congress could heavily influence policies to benefit the company's ambitions — even though the company insists that Schmidt's political giving is purely personal.

"There's a bit of schizophrenia going on here," said a Silicon Valley insider who spoke on the condition of anonymity because he does business with Google. "On one hand, he's professing personal political commitment, and on the other, he has a responsibility and mandate to push forward his own company's ambitious agenda. It's impossible to separate the two. For many firms out here who will be competitors to Google, these are concerns."

Competitors noted that Schumer, a recipient of Schmidt's campaign contributions, led a group of senators in sharply criticizing Facebook for mishandling users' personal information — but didn't comment when Google's Wi-Fi snafu surfaced.

Executives at carriers like Verizon and AT&T are nervous about Schmidt's relationship with FCC Chairman Julius Genachowski — who, like Schmidt, has been a close adviser and friend to the president.

One of Schmidt's last official meetings with Genachowski was in October, according to agency records. Schmidt "expressed his appreciation to the chairman for his leadership in promoting open and robust access to the Internet." Three weeks later, Genachowski formally announced his plan to codify Net neutrality regulations.

Google declined to comment for this story, but some observers said it isn't surprising that the company and the administration have common values.

Democrats have traditionally been more interested in technology start-ups, while Republicans have typically been more friendly to telecom carriers, "so the tight relationship is partly based on shared policy views and is enhanced by Schmidt's own proactive work with the administration," said Paul Gallant, a telecom analyst at Concept Capital's Washington Research Group.

"If you look at Google's donations and the flow of personnel from his company to the administration, as well as his personal involvement, Schmidt is certainly one of the bigger players," Gallant said.

Google's political action committee spending jumped significantly with the 2008 campaign, going from $37,000 in 2006, its first year in existence, to $289,000 at the end of 2008. As of March 31, the PAC had spent about $183,000, consistently giving around 60 percent of its funds to Democrats.

Schmidt's political interests date back to his days as an executive of Sun Microsystems and Novell in the 1990s. But it was Schmidt's vigorous support of Obama's presidential run that started to get attention.

During the 2008 campaign, Schmidt served as an informal economic adviser to Obama and actively stumped for the candidate, who was the first to visit Google's headquarters, in 2007. After the election, Schmidt and other Google executives paid $25,000 each to help pay for a lavish, star-studded inaugural celebration.

Schmidt was then appointed to Obama's Council of Advisors on Science and Technology, as was Microsoft Chief Strategy Officer Craig Mundie, and became an advocate of the $787 billion stimulus package.

Four Google employees went to work in the administration. Andrew McLaughlin, former head of Google's global public policy, is now White House deputy chief technology officer for Internet policy — an issue in which Google has a significant stake. McLaughlin came under fire for continuing to converse with former colleagues about policy issues such as Net neutrality.

When Obama released a memorandum directing agencies and companies to free up a wide swath of airwaves for

wireless broadband services last month, Larry Summers, head of the White House economic team, gave a high-profile speech at the New America Foundation.

Schmidt is the chairman of the New America Foundation — a detail not lost on critics, who point out that Google, which makes a fast-growing mobile operating system and provides 70 percent of the mobile advertising in the U.S., stands to gain from bigger, faster wireless networks.

"He's a technologist, but he also understands the head-of-state role of a CEO," a D.C. tech industry lobbyist said of Schmidt. "He's rare among CEOs in that he really understands how Washington works."

Financial Times
Editorial: Google should be watched carefully
July 15 2010 22:34 | Last updated: July 15 2010 22:34

Google is an innovative company that has produced many benefits for consumers with its free search technology. In turn, it has become a highly profitable enterprise with a strong market share.

It is thus very important to many companies – particularly small businesses – where they appear in Google's search rankings. They have no way of knowing how Google's technology works since the company wants to protect its competitive edge.

As a result, Google is coming under increased scrutiny from regulators, with the European Commission already making informal inquiries into the search market. As yet, there is no evidence of Google abusing its market power, but it could do so.

As reported in the Financial Times this week, Google is facing controversy in two areas. The first is "search neutrality", the suggestion that regulators should oversee its algorithms or set clear rules to ensure that search engines are not systematically biased for editorial or commercial reasons.

This is an impractical and unnecessary idea. As Marissa Mayer, Google's head of search, argued in the FT, it is better for different search engines to compete vigorously with each other to produce the best and most relevant results. Google may be highly successful in search, but competition is only a free click away.

The second area of concern is Google's provision of vertical services linked to search – for example, its display of Google Maps when a user looks for an address, or Google comparison shopping data when someone searches for a camera. This affects rival providers in travel and e-commerce.

Barry Diller, chairman of Expedia and InterActiveCorp, protested this week about Google's $700m acquisition of ITA Software, saying that it would give Google unfair leverage in displaying flight information. Mr Diller wants the deal to be scrutinised carefully by regulators and conditions imposed.

Google's defence is that it is trying to supply the most useful possible information to users. But the potential for antitrust abuse through the tying of vertical services to search raises clear concerns. European and US regulators should use the ITA deal to examine the issue broadly.

It would be wrong for Google to be hamstrung by regulators simply because its services are superior to rivals, but it needs to be watched with care. Google is not obviously being evil but it is such a powerful technology company that it has the potential to go astray.

New York Times

Editorial: The Google Algorithm
July 14, 2010

Google handles nearly two-thirds of Internet search queries worldwide. Analysts reckon that most Web sites rely on the search engine for half of their traffic. When Google engineers tweak its supersecret algorithm — as they do hundreds of times a year — they can break the business of a Web site that is pushed down the rankings.

When Google was a pure search engine, it was easy to appear agnostic about search results, with no reason to play favorites with one Web site or another. But as Google has branched out into online services from maps and videos to comparison shopping, it has acquired pecuniary incentives to favor its own over rivals.

Google argues that its behavior is kept in check by competitors like Yahoo or Bing. But Google has become the default search engine for many Internet users. Competitors are a click away, but a case is building for some sort of oversight of the gatekeeper of the Internet.

In the past few months, Google has come under investigation by antitrust regulators in Europe. Rivals have accused Google of placing the Web sites of affiliates like Google Maps or YouTube at the top of Internet searches and relegating competitors to obscurity down the list. In the United States, Google said it expects antitrust regulators to scrutinize its $700 million purchase of the flight information software firm ITA, with which it plans to enter the online travel search market occupied by Expedia, Orbitz, Bing and others.

The accusations in Europe may or may not have merit. Google says it only tweaks its algorithm to improve its searches. Some Web sites that have accused Google of unfair placing are merely collections of links with next to no original content of their own, precisely the kind of sites that Google's search algorithm screens out to better answer queries. Antitrust regulators in the United States could well let Google buy ITA because it does not now provide online travel services.

Still, the potential impact of Google's algorithm on the Internet economy is such that it is worth exploring ways to ensure that the editorial policy guiding Google's tweaks is solely intended to improve the quality of the results and not to help Google's other businesses.

Some early suggestions for how to accomplish this include having Google explain with some specified level of detail the editorial policy that guides its tweaks. Another would be to give some government commission the power to look at those tweaks.

Google provides an incredibly valuable service, and the government must be careful not to stifle its ability to innovate. Forcing it to publish the algorithm or the method it uses to evaluate it would allow every Web site to game the rules in order to climb up the rankings — destroying its value as a search engine. Requiring each algorithm tweak to be approved by regulators could drastically slow down its improvements. Forbidding Google to favor its own services — such as when it offers a Google Map to queries about addresses — might reduce the value of its searches.

With these caveats in mind, if Google is to continue to be the main map to the information highway, it concerns us all that it leads us fairly to where we want to go.

Financial Times
Net neutrality comes back to haunt Google
By Richard Waters
July 13 2010 19:52 | Last updated: July 13 2010 20:09

Google has become the main advocate in Washington for a set of regulations to prevent internet service

providers favouring particular companies' traffic.

However, that campaign, over what is known as "net neutrality", has handed a gift to its own detractors.

This year, "search neutrality" has become the rallying cry of activists who believe that Google has too much power to decide which internet sites are granted the attention that comes with a high search ranking, and which are consigned to outer darkness.

After regulating the "pipes" of the internet with net neutrality, says Frank Pasquale, a professor at Seton Hall law school, "we need to look at the next part of the bottleneck, and that means search".

For now, there is no indication that Washington is interested in creating a regime to govern the search business, and the campaign has served mainly as a way for Google's detractors to try to push it on to the defensive over other issues.

But antitrust regulators have already begun to look this year into how the company's core search ranking system works. The announcement this month of the $700m acquisition of ITA Software, a travel technology company, is now set to extend that further.

Joaquín Almunia, Europe's top competition official, last week gave the first direct indication that Brussels was taking Google's search power seriously.

The European Commission began an informal review into allegations of bias in the search rankings early this year but Mr Almunia's declaration that he was looking at the issues "very carefully" was seen in antitrust circles as a sign the issue was now squarely on Brussels' agenda.

The German cartel office, meanwhile, is considering complaints brought by newspaper and magazine publishers, and regulators in Washington are being urged to scrutinise closely.

Speaking in an interview with the Financial Times this week, Barry Diller, who oversees a large collection of internet sites including travel service Expedia and search engine Ask, called on US regulators to either impose conditions on Google's purchase of ITA or block the deal outright. Extending its reach into new areas such as travel would lead to Google promoting its own services above those of sites such as Expedia, Mr Diller said.

US regulators have also been taking informal soundings among companies for some months about the extent of Google's influence on the internet, although that has not led to any official review, according to two people familiar with discussions.

The Commission case could become the thin end of the wedge in constraining Google's power, according to some antitrust experts in Brussels.

If Brussels rules Google is dominant in its market, it would put the company on notice to act with "special responsibility" – a vague requirement in European law that could force it to re-examine many of its business practices, says Thomas Vinje, a partner at Clifford Chance. Among the issues it might have to reconsider, he adds, is whether it can give preferential treatment in search results to its own services, such as those complained of by Mr Diller.

Some critics are also calling for regulators to have closer oversight of Google's core technology, to make sure no bias is at work. "We are asking it to open its algorithm to the Federal cartel office," says Echkard Bremer, the lawyer representing German publishers.

Ultimately, whether regulators decide to intervene is likely to depend on their assessment of the company's own assertion that internet users can easily go elsewhere if they do not like the search results they are being shown.

Google's dominance may be less assured than it seems. A recent test showed that Google's results are no better on average than those served up by Microsoft's Bing, says Viktor Mayer-Schönberger, who is about to take up the position of professor of internet governance and regulation at Oxford University.

"The good news is that it means Google won't get regulated," Mr Mayer-Schönberger says. "The bad news is that when consumers figure that out, they could easily move."

The habits of web users are also likely to influence the outcome. Services such as Facebook and Twitter help determine how people navigate the web. "The monopoly Google holds is less of a natural monopoly than people think," says Dave Sifry, founder of Technorati. "In a way, search is the last war."

For now, Google's algorithm reigns supreme. But it is still too early to tell if it will be a permanent fixture.

Financial Times
Searching questions over company's technology
By Richard Waters in San Francisco
July 13 2010 23:00 | Last updated: July 13 2010 23:00

For a company renowned for its lack of openness, **Google** has been working hard to smooth over concerns about the functioning of its search technology. Richard Jalichandra, chief executive of Technorati, a specialist blog search group, is among those who has sought direct help to get a better showing in the Google search results.

"They have looked at individual [Technorati] pages and made suggestions" about how to make them more visible to the search engine, he says.

"I'm surprised how much they've responded."

Help like this, and the general guidelines it gives to websites about how best to present their pages, belie the claim that Google's system lacks any transparency, says Eric Goldman, a law professor at Santa Clara University.

Matt Cutts, who leads Google's dealings with websites, says giving away too much about its search algorithm would expose the system to being "gamed" but adds: "We try to communicate as much as we can." He adds that with about 200m domains on the internet Google is limited in the direct help it can give, and tries to concentrate on problems shared by a number of sites.

However, Shivaun Raff, co-founder of Foundem, a site that has taken its complaint to Brussels, said it took three years for Google to deal with issues that led to her group being downgraded in the rankings.

She called on Google to operate a formal appeals process. "We want them to be more transparent about the existence of penalties."

One way to make the process fairer would be to bring in an independent ombudsman, as some news organisations do, say some critics. Mr Cutts says that an ombudsman "is something we've talked about" but Google prefers its "community approach".

Seattle Times
Editorial: Google needs to stop snooping

July 12, 2010

The Seattle Times editorial board comments on the issue of Google collecting Wi-Fi data with its Google Street View vehicles.

"WHO was harmed? Name the person." So said Google CEO Eric Schmidt several weeks ago in regard to the company's vacuuming of data from wireless local area networks. Schmidt may be right technically, but the words are not comforting, either about the wireless boom or about Google.

The issue involves Google Street View, which provides photos taken from the street. The vehicles that took the photos also had instruments to detect and probe Wi-Fi networks, the "hot spots" where a computer, a mobile phone or other wireless devices can be connected to the Internet without a wire.

Mapping where people can go online creates no privacy problem. Tapping into what they are *doing* online does.

The French government looked at Google's data and reported that it had captured passwords for medical services and banking. Google said it had not done anything with the data and was willing to erase it. In several cases, it is forbidden to erase it because governments want to look at it, to see if Google broke the law.

We do not want governments snooping into what people are doing online any more than we want Google doing it. Erase the data.

For Google, the lesson is clear. Pay attention to what you do. If this project was merely a mistake, it went on in a lot of places for a long time.

To Google's slogan, "Don't be evil," one might add the motto of former IBM boss Thomas Watson: "Think."

There is a lesson for wireless users, too. If you're on the Internet typing in passwords, bank card numbers, a Social Security number — do it over a heavily encrypted connection. If you are not sure how good the encryption is, use a wire line.

Financial Times
Sinister take on search engine optimisation
By Joseph Menn in San Francisco
July 12 2010 18:51 | Last updated: July 12 2010 18:51

Professional criminals are increasingly likely to outflank legitimate companies in competing for **Google**'s algorithmic attention, security professionals say.

Criminal gangs use a more sinister form of search engine optimisation, duping Google and its rivals into serving as unwitting vehicles for delivering web surfers to malicious pages.

Known as "black hat SEO", the art includes conventional tricks such as stuffing articles with keywords and amassing links from affiliate sites.

But it goes much further: The bad guys steal content from legitimate pages and spin the content with new wording, which practitioners say makes them hard to distinguish from the real thing.

They hack into trustworthy sites directly and link to their own pages from there, piggybacking on good reputations to get better rankings.

They also use Google's own disclosures against it, leaping on Google Trends, which indicates newly popular subjects for searches, to throw together bogus pages faster than real news-oriented pages appear.

"The advantage that the bad guys have is that they can leverage other people's networks," said Richard Wang, US lab manager for the technology security company Sophos. "They have a larger reach than a legitimate organisation."

The result is that searching – especially for election or sporting results, celebrity mishaps or natural disasters – is more dangerous than ever before. Within 24 hours of the earthquake in Haiti, says security group M86, three of the top 10 Google results were pages loaded with booby-trapped code.

The number of bad links is tripling every year, with the majority on legitimate websites that have been hacked, according to Bradley Anstis, M86 vice-president. He said Google could help by digging deeper into the websites it ranks, looking at individual pages within them.

What Google sees, though, is different from what the end users see. The con artists can tell when a search engine is visiting the site and they show content laden with keywords. When a potential victim arrives via Google, the criminals pull a switch, redirecting the visitor to another page with bad code.

One of the most common goals of the past two years has been to show visitors pop-up notices warning that their computers have a virus and then prompting them to pay for bogus security software that does nothing but steal financial account information.

Computers that have unpatched vulnerabilities in their programs can also be captured and turned into all-purpose drones for sending spam, and they can be rigged to send back bank account logins – or logins to web pages, if the owner has access, which can then be seeded with more code linking to deceptive sites.

Security professionals say that Google is responsive when it hears about a bad page or new criminal method but they add that the company has a special responsibility as the dominant connector between thugs and victims.

Broadly disclosing the algorithms Google uses would probably aid the bad guys more than those trying to stop them, they say.

Sharing more about the automated decisions with outside security experts, on the other hand, could make a difference.

Financial Times
Unrest over Google's secret formula
By Richard Waters in San Francisco
July 11 2010 23:07 | Last updated: July 11 2010 23:07

Dave Sifry, founder of Technorati, a specialised internet search engine, knows what it is like to fall foul of Google's algorithm.

Like many businesses that live on the web, Technorati relies heavily on traffic directed its way by Google. The internet group has also become a competitor, creating a service of its own to search inside blogs – the same market that Technorati was set up to serve. Technorati's standing in the all-important Google search rankings have tumbled on several occasions, says Mr Sifry, hitting its business directly.

"We were certainly penalised," he says of the relegation. He adds that he does not know whether his company was singled out for special treatment, or whether it fell foul of a broader change to Google's search technology

that also hit other similar websites.

Google wields tremendous power to make or break businesses on the web. Through the secret algorithm that determines which web pages show up most prominently in its search results, it can bring a flood of traffic to other sites – or cast them into the online equivalent of Siberia.

That power is built on the trust that hundreds of millions of internet users have in the company's search results. As Google executives are fond of pointing out, competition is only "one click away" – there is nothing preventing its users from searching elsewhere. But Google's considerable power also stirs resentment and unease.

"It really has massive control over so many companies," says Mike Kwatinetz, a partner at Azure Capital, a Silicon Valley venture capital firm. "I know companies whose traffic dipped 50 per cent in a month. There are companies who know they're in the penalty box, they're trying to get out, they just don't know how."

One sign of that unease is the complaint from Barry Diller, chairman of travel site Expedia, that Google is giving unfair preference to its own services. Google's moves into new specialised services such as travel are stirring wider concern.

The concerns spread far beyond commerce. "It's a cultural policy question," says Siva Vaidhyanathan, an associate professor of media studies at the University of Virginia. "Google has so much influence on what we stumble upon, what we read and what we believe."

With so much at stake, it is not surprising that resentment at Google's power has started to spill over. Prompted by three complaints, the European Commission this year began an informal investigation, the first time that regulators have pried into the inner workings of the technology that lies at the heart of Google.

Meanwhile, a French antitrust regulator last month became the first to take action against Google's search advertising service, ordering it to reinstate an advertiser it had barred from its system.

Google's massive success accounts for the heightened attention being paid to how its core ranking algorithm operates. Other search engines may operate the same way, but none has Google's influence.

By the company's own reckoning, searches on its site triggered $54bn in economic activity in the US alone last year – an estimate that it calls conservative.

With more than half its revenues coming from outside the US, that suggests the total size of the "Google economy" now tops $100bn. In western Europe its share of the search market tops 90 per cent, compared to about 70 per cent in the US.

Even the company's supporters concede that this sweeping influence justifies closer scrutiny. "As a regulator, you can't ignore Google's dominance of its market – the fact that these questions are being asked is a good thing," says Eric Goldman, a professor at the Santa Clara University law school – although he argues that the risk of losing users is a more effective discipline on Google to maintain the quality of its search results than any regulator.

Most websites rely on Google for about 50 per cent of their traffic, says Richard Jalichandra, Technorati's chief executive. So when Google changes its algorithm in a way that results in a single site, or a whole class of sites, being pushed further down the rankings, the pain can be significant.

That has been the case with Google's treatment of sites that either act as specialist search engines themselves or otherwise "aggregate" content from around the web, according to critics like Mr Jalichandra.

Similar complaints from Foundem, a UK comparison shopping site, and Ejustice, a French legal search engine, are now being reviewed by European regulators. Brussels is also looking into a third case involving a contract dispute with Google that has been lodged by Ciao, a German site owned by Microsoft.

Foundem, which lets users compare prices for items like cameras, suffered a sudden drop in its ranking on Google's results pages four years ago, says Shivaun Raff, who cofounded the site with husband Adam. That was quickly followed by a rapid rise in the amount Foundem had to pay to have its advertisements shown on Google, she adds – a sign that Google had judged the site less relevant to users, forcing it to pay more.

Foundem's problems were caused by a change to Google's ranking algorithm that "was designed to penalise comparison shopping and travel services", claims Ms Raff – a result, she adds, of a policy to downgrade sites that do not carry much original content of their own.

Google certainly concedes that the impact of changes to its algorithm, which numbered more than 500 last year, can be sweeping. "Some of those changes may change ranking substantially for some queries – that's the nature of it," says Amit Singhal, the Google search expert responsible for the algorithm. But he denies that the search company has any particular class of sites in mind when making changes to the rules that determine how they are ranked, or that it "penalises" any by singling them out for special treatment.

Those assurances echo a familiar refrain from Google: that its search results are the product of objective rules for filtering websites that somehow rise above the level of subjective human judgment. Yet that, according to many observers, is a myth.

"Some human being writes the algorithms," says Mr Sifry. "I don't think it's anywhere near being nefarious – but algorithms are not just pure rules that arrive out of nowhere." By changing its mathematical formula to modify the results returned to a particular query, Google's engineers are making judgments very similar to the editorial decisions made at a more traditional media organisation, he and others argue.

Even if Google's engineers are well-meaning in their approach to the search rankings – as critics like the Raffs are prepared to concede – their good intentions may not be enough. "We can't be sure that Google 10 years from now won't be corrupt – or that whoever is the dominant search engine won't be corrupt," says Mr Vaidhyanathan. And even a well-meaning Google can have devastating effects on companies that fall foul of its secret judgments on where they should rank in the decisive pecking order of the search world.

Google executives say they do all they can to educate website owners about how to design their pages in a way that gives them the best chance of figuring prominently in search results. But they also say they cannot disclose too much of the inner workings of the search engine for fear of helping unscrupulous operators exploit the system.

That leaves plenty of scope for expensive miscalculations, says Mr Kwatinetz. "If we link to the right places, they favour us," he says, referring to the higher rank that Google accords to websites that are connected by hyperlinks to other well-regarded sites. "But if we link to the wrong places, it can be devastating."

Financial Times
Diller calls Google travel deal 'disturbing'
By Richard Waters in San Francisco
July 11 2010 23:03 | Last updated: July 11 2010 23:03

Google's use of its search engine to support its expansion into new internet services gives it an unfair advantage and puts it on a collision course with antitrust regulators, according to a prominent US media mogul.

Barry Diller, chairman of online travel company Expedia and InterActiveCorp, which has amassed one of the largest collections of internet properties, criticised Google for giving prominence in results to its in-house services. That had enabled it to "arbitrarily get in front of" other internet companies that rely on Google for traffic.

"I think it is disturbing that Google is moving into serving individual spaces, rather than being search neutral," Mr Diller said. "It is a dangerous step because it is inevitably going to cause problems with customers and regulatory authorities."

The comments come less than two weeks after Google unsettled the online travel industry with an agreement to pay $700m for ITA Software, whose technology is used to find airline flights and tickets prices.

By enabling Google to display suggested flights in reply to searches, the deal would give it a strong foothold in the largest e-commerce market and potentially put it in competition with companies such as Expedia.

Eric Schmidt, Google's chief executive, has said he expects a protracted regulatory review of the deal but that it would enable Google to create services making it easier for travellers to book travel online.

Calling the ITA deal "a frontal assault on a core area of internet life", Mr Diller said that Google was "using its market power" to gain an unfair advantage. He said regulators should deal with the ITA problem "either by conditions or denial".

His comments echo complaints lodged with regulators in Europe this year about Google's spreading power as it moves into a wider range of specialised, or "vertical", information web services.

Sergey Brin, Google's co-founder, said last week that displaying results from its own services enabled it to provide more useful answers to search queries.

Mr Diller said that he believed Expedia was Google's biggest advertiser, paying the search company "very many hundreds of millions of dollars" a year. He said representations to Google before the deal not to buy ITA had been ignored.

Financial Times
Services attract complaints of favouritism
By Richard Waters in San Francisco
July 11 2010 23:44 | Last updated: July 11 2010 23:44

Eric Schmidt is expecting an antitrust examination of Google's ITA deal

Not all the results that appear high up on Google's results pages are there because a dispassionate algorithm has filtered them out from a mass of less relevant material on the web.

Google's own specialist services, such as its maps and weather reports, are often given pride of place over similar services from other companies. That has brought complaints this year that as it extends its reach into new corners of the online world, Google can use its dominance in search to give its own services an unfair advantage.

Google engineer Amit Singhal dismisses that claim as "very unfair". The company's only aim in drawing information from its own services, he says, is to give its users quicker answers to their questions: "It's all about user value and information. Our job is to answer the query the user wants with the best piece of information," he says.

The issue featured in a complaint to the German cartel office earlier this year from German magazine and newspaper publishers. "Google directs traffic to its own services, like Google Maps and Google Images," says Eckhard Bremer, the lawyer representing the publishers. "It is a disadvantage to other companies that compete with these sub-services." US antitrust regulators have just been handed their first chance to dig into the same matter.

Eric Schmidt, Google's chief executive, said last week that he expected close antitrust examination of his company's planned purchase of ITA Software. The deal would make Google a leading source of information about airline tickets – potentially displacing other travel sites that rely on search traffic for new customers.

Speaking in an interview with the Financial Times, Barry Diller, chairman of online travel company Expedia, has already complained about the deal.

The criticisms stem from a new approach to presenting search results that Google introduced in 2007, known as Universal Search.

- ***Universal Search brings wider offering:*** *Universal Search involves breaking search results into categories and showing more answers on the first page of results, rather than returning only a list of links to other sites. A search for "camera", for instance, might bring up samples of cameras and their prices from Google's online comparison shopping service, as well as a map highlighting local businesses that sell cameras, with links to Google's own shopping and maps services. A search for "San Francisco" highlights information from, and links to, Google services for maps, news, blogs and images.*

In a complaint to the Federal Communication Commission in the US, Foundem, a comparison shopping site which has helped to prompt an informal European enquiry, said this approach had given a huge boost to Google's own comparison shopping service, that had previously struggled to win traffic.

It also helped Google's maps service to overtake former market leader Mapquest, according to a report commissioned by Consumer Watchdog, a US advocacy group. Mapquest's share of the traffic to online map sites in the US has fallen from 57 per cent to 32 per cent since Universal Search was launched, while Google's rival maps service has seen its share rise from under 20 per cent to 51 per cent, according to the report.

Google does not subject its own services to the same stringent relevancy tests that it applies in its normal web search.

"Our tendency is, when a product has actually become popular with users, then it's okay to show it," says Mr Singhal. He says that the main reason for highlighting its own services is that Google is better able to search inside them to find direct answers to search queries. "We don't think of it as vertical search services – I think of it as relevant information," he says.

A second, related complaint is that Google services like YouTube, which is ranked alongside other web video services in search results, may have an unfair advantage. Mike Kwatinetz, a venture capitalist who was once Wall

Street's leading analyst covering Microsoft, compares this to the power that the software company had to favour its own PC applications.

Rivals feared that Microsoft was giving its own developers better information about how to make their software run on Windows, putting independent developers at a disadvantage. Similar fears now swirl around YouTube, which may have more insight into the workings of Google's secret search algorithm than outsiders, says Mr Kwatinetz.

Google dismisses that claim. "Our job is to bring [a YouTube video] when it's very relevant," says Mr Singhal. "We happily show videos from Hulu [a rival site]," he adds.

Critics also sometimes claim that Google subverts its own algorithms to give prominence to results from companies that it has a commercial relationship with – Google rejects this as "rubbish."

The argument was made by the German publishers in their complaint this year. A six-month study highlighted cases that appeared to reflect favouritism, such as when a search in German for "Europe" returned a link to an insurance company of that name as the top result, said Mr Bremer.

Rejecting that argument, Google said it had been the first search service to reject mixing "sponsored" and objective results, and owed much of its success to that decision.

Associated Press
Google Buys Travel Software Company for $700M
July 1, 2010 4:23 PM

MOUNTAIN VIEW (CBS 5 / AP)

Google Inc. plans to buy travel technology company ITA Software Inc. in a $700 million deal that would enable the Internet search leader to steer more of the airline reservations booked on the Web.

The all-cash deal announced Thursday signals Google's intention to challenge flight-comparison services that are ITA customers, including Kayak, FareCompare, Hotwire and Microsoft Corp.'s Bing Travel. The deal is likely to face a rigorous review by federal antitrust regulators.

"There is clearly more room for competition and innovation" in online travel, Google CEO Eric Schmidt said in a conference call. "We will improve the way flight information is organized."

ITA Software, a 500-employee company created in 1996 by computer scientists at the Massachusetts Institute of Technology, sells technology that helps run the reservation systems of many airlines, including American, Southwest, Alaska and Continental. Its software also powers the tools that other travel websites use to track air fares.

The widespread reliance on ITA's technology means federal regulators are likely to spend six months to a year trying to determine whether the acquisition will give Google an unfair advantage in the rapidly growing online travel market, said Ted Henneberry, an antitrust lawyer in Washington for Orrick, Herrington & Sutcliffe.

"This is going to raise a lot of eyebrows," he said.

Schmidt did not predict when the deal might close, but said he expected Google would ultimately win approval after regulators take a "fair amount" of time to review the deal.

"We are pretty confident that this is pro-competitive and pro-consumer," Schmidt said.

He declined to say how much Google will have to pay if the proposed purchase is blocked by regulators.

Both the Federal Trade Commission and U.S. Justice Department declined to comment Thursday.

Google is counting on ITA's expertise to improve the quality of its search results when people are looking to make airline reservations.

Schmidt predicted the biggest winners in this deal would be consumers, but he also predicted Google would be able to drive more traffic to airlines and travel agencies such as Orbitz and Expedia. Google would profit from ITA's technology by selling more ads alongside the flight data.

Bing has been picking up more traffic with features that help people figure out whether the prices of airline prices are likely to increase or decrease. Like other search engines specializing in travel, Bing checks multiple sites at once for the best deals and sends users to those sites to book there.

Travel websites generally earn fees for sending traffic to flight booking sites, but Google appears more interested in improving its travel search service so that it could retain users and sell more ads.

"That's the allure for them," said Gary Reback, an antitrust attorney who has been trying to convince regulators that Google has been abusing its power. "They want to control all that traffic" that has been going to the specialty travel sites.

Google intends to honor all of ITA's existing contracts if the acquisition is approved. It's unclear whether Google would still want to work with some of its rivals after the contracts expire.

This isn't the first Google acquisition to come under intense scrutiny. Regulators took nearly a year to approve the company's $3.2 billion purchase of online ad service DoubleClick in 2008 and six months to OK its recent $750 million takeover of mobile ad service AdMob.

Those successes may have emboldened Google to buy ITA Software, too, Henneberry and Reback said in separate interviews. "If the government lets this one go through, then I don't know what it will take for them to stop any deal" by Google, Reback said.

Shares in Google rose 40 cents to $439.89 in extended trading Thursday after the announcement. Earlier, shares were down $5.46, or 1.2 percent, to close at $439.49.

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Young, June

From: JDL
Sent: Friday, August 27, 2010 2:43 PM
To: Prewett, Cecelia
Subject: Re: early clips 8.27.10®

From: Prewett, Cecelia
To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel
Sent: Fri Aug 27 09:29:18 2010
Subject: early clips 8.27.10

Not Responsive

Not Responsive

11/12/2010

Not Responsive

Google Street View Car Halted, Searched Outside Paris

Wednesday, August 25, 2010

Aug. 26 (Bloomberg) -- A car used by Google Inc. to collect data for its Street View mapping service was stopped and searched yesterday near Paris, less than a week after France's privacy regulator criticized the program's resumption.

The inspection was a result of Google's decision to begin photographing French streets before officials decided whether the company complied with orders to limit Street View's data collection, said Yann Padova, secretary general of the National Commission for Computing and Civil Liberties.

The search "was done especially to verify that they stopped collecting Wi-Fi data," Padova, 43, said in an interview today.

Google, owner of the world's largest search engine, is the subject of probes from data-protection regulators in Germany, Spain, Italy and the Czech Republic over concerns the Street View program violates privacy rights. Earlier this month, South Korean police raided Google's Seoul office as part of a Street View investigation. Google's privacy practices are also being scrutinized by Canada and the U.S. Federal Trade Commission.

Al Verney, a spokesman for Mountain View, California-based Google, said he had no immediate comment.

Google will play it safe with European regulators as it seeks to continue Street View data collection in Europe, Sam Hart, an analyst at Charles Stanley in London, said by phone.

'Reputation and Brand'

"They're already very aware of the potential damage perceived privacy violations could do to the Google reputation and brand," Hart said. "I would expect them to proceed extremely cautiously."

Street View allows Google users to click on maps to see photographs of roadsides, and is already available for most major French cities.

CNIL, as the French regulator is known, has received complaints since the program began, initially over the lack of digital masking of people's faces. One couple told CNIL they found photos on the service showing the interior of their apartment, including their 4-year-old daughter without clothes on. That complaint was one of the catalysts that prompted the review, Padova said.

Google resolved that problem, introducing blurred images and removing other photos, Padova said.

Later, it was revealed that Street View cars collected wireless data, including e-mails and passwords, without people's knowledge. CNIL issued an injunction in May demanding Google stop and turn over the data it had gathered.

Compliance

"We have already received a lot of information, notably on the technical aspects," Padova said. CNIL will examine the responses to determine whether Google complied with demands or whether a fine is in order, Padova said.

He wouldn't say what the inspectors found yesterday, saying CNIL "asked Google to modify the cars, now we need to verify that it was done." CNIL has inspected two other Street View cars, Padova said. It is the only European regulator to do so, and has shared information with European counterparts, he said.

CNIL can fine companies as much as 300,000 euros ($382,000) with first-time offenders getting a 150,000-euro fine.

CNIL also ordered Google to register Latitude, a feature on the mobile version of Google Maps. The company has refused to do so, saying the program isn't subject to French law, Padova said.

"It's very simple, it's a question of principle for them and for us," Padova said.

--With assistance by Matthew Campbell in London. Editors: Christopher Scinta, Anthony Aarons.

http://sfgate.com/cgi-bin/article.cgi?f=/g/a/2010/08/25/bloomberg1376-L7RGS31A74E901-1HSVNIL4REN9HD5IPOPHSH2FOB.DTL

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
202.326.3220 desk
202.758.7598 cell & berry

Young, June

From: JDL
Sent: Monday, October 25, 2010 5:16 PM
To: Matties, Deborah J.; Lupovitz, Joni; DeLorme, Christine L.
Subject: Re: Google wi-fi

Ok, thanks. Let's talk when I get back. (5 mins.)
Jon
Sent from JDL Blackberry

From: Matties, Deborah J.
To: Lupovitz, Joni; JDL; DeLorme, Christine L.
Sent: Mon Oct 25 16:53:09 2010
Subject: FW: Google wi-fi

fyi - we've asked the Commissioners to let us know of any concerns by 2pm tomorrow.

Duplicate

Not Responsive

Young, June

From: Matties, Deborah J.
Sent: Wednesday, October 27, 2010 3:24 PM
To: JDL
Cc: Lupovitz, Joni; DeLorme, Christine L.
Subject: Fw: Google Street View

Fyi, EPIC's petition on the google wifi issue went to the FCC (wiretap law violation).

-- Debbie

Duplicate

Young, June

From: JDL
Sent: Sunday, October 31, 2010 3:04 PM
To: Matties, Deborah J.
Cc: Lupovitz, Joni
Subject: RE: Barton Google WiFi briefing request

Good—we want to give them non-publics.
Jon

From: Matties, Deborah J.
Sent: Friday, October 29, 2010 3:05 PM
To: JDL
Cc: Lupovitz, Joni
Subject: Barton Google WiFi briefing request

Kim also just got a request from Barton's staff for a briefing on Google WiFi. She is handling the same way she's handling the Issa request -- telling them we can do a public briefing without the involvement of majority staff or a nonpublic if Waxman or Markey request it. In this case, however, since we already voted out a non-public briefing for Google investigations for the majority, we wouldn't need to do that again - we'd just need a call from Waxman or Markey to do a nonpublic.

Debbie Matties
Attorney Advisor
Office of Chairman Jon Leibowitz
Federal Trade Commission
dmatties@ftc.gov
(202) 326-2047 (office)
(202) 758-7697 (mobile)

Lupovitz, Joni

From: Matties, Deborah J.
Sent: Saturday, October 23, 2010 11:31 PM
To: Lupovitz, Joni
Cc: DeLorme, Christine L.
Subject: Fw: Google wi-fi - heads up for Monday
Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

Joni - see below and attached for Staff's proposed letter to Google, which they want to issue Monday in time for Jerusalem. Recall that previous letters to Google from David were also reviewed by the Commissioners (google books comes to mind; I think there was another that I'm not remembering right now).

(b)(5)

-- Debbie

Duplicate

Lupovitz, Joni

From: Matties, Deborah J.
Sent: Sunday, October 24, 2010 6:10 PM
To: Lupovitz, Joni
Subject: Re: Google wi-fi - heads up for Monday

Just tried calling. You can try me back at (b)(6)

-- Debbie

From: Lupovitz, Joni
To: Matties, Deborah J.
Sent: Sun Oct 24 17:09:52 2010
Subject: Re: Google wi-fi - heads up for Monday

Can you call my cell before 6:30?
(b)(6)

From: Matties, Deborah J.
To: Lupovitz, Joni
Cc: DeLorme, Christine L.
Sent: Sun Oct 24 10:04:53 2010
Subject: Fw: Google wi-fi - heads up for Monday

-- Debbie

Duplicate

Lupovitz, Joni

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 4:31 PM
To: Kestenbaum, Janis; Delaney, Elizabeth; Young, Kial; McKewen, Richard; Krainsky, Ella; Winerman, Marc; Cooper, James; Hollman, Hugh
Cc: Mithal, Maneesha; Lupovitz, Joni; DeLorme, Christine L.
Subject: Google WiFi letter

Attachments: wi fi letter 10.26.10.wpd; redline..wpd

wi fi letter 10.26.10.wpd (178..

redline..wpd (181 KB)

Fyi, here is the final version to be made public tomorrow morning. Thanks to everyone who provided helpful suggestions.

Lupovitz, Joni

From: Mithal, Maneesha
Sent: Friday, October 29, 2010 12:47 PM
To: JDL; Eichorn, Mark; Rich, Jessica L.
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; DeLorme, Christine L.; Bumpus, Jeanne; Prewett, Cecelia
Subject: RE: AG Blumenthal & Google Street View

Of course we can call him.

While I completely agree that we need to have a better process next time (and are taking steps to make that happen), we did keep the state AGs in the loop. Here's a message from DPIP staff on their dealings with the state AG task force:

We were in regular contact with them and reported on our conversations with them at the last biweekly. We mainly talked to Scott Schafer from MA and Christine Nielsen from IL, but someone from CT (the lead on the task force) was on the last call as well. We had given them a heads up on our letter approach right after the biweekly a couple of weeks ago, and I gave Scott and Christine a heads up on Wednesday.

From: JDL
Sent: Friday, October 29, 2010 12:40 PM
To: Eichorn, Mark; Mithal, Maneesha; Rich, Jessica L.
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; DeLorme, Christine L.; Bumpus, Jeanne; Prewett, Cecelia
Subject: AG Blumenthal & Google Street View

Hi,
Could someone give Anthony Giani (I may have the last name wrong by a letter or two) in AG Blumenthal's office a call--(860) 808-5100? Apparently he is the point person on this investigation for Blumenthal, who is leading it on behalf of the AGs. Not surprisingly, they too are upset about not being notified.
In the future, we really need to make sure we run a better process & give folks with a legitimate interest (privacy organizations, state AGs, members of congress of both parties) heads up when appropriate.
Best,
Jon

Lupovitz, Joni

From: Prewett, Cecelia
Sent: Friday, October 29, 2010 12:55 PM
To: Mithal, Maneesha; JDL; Eichorn, Mark; Rich, Jessica L.; Farrell, Claudia B.; Hackley, Cheryl
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Bumpus, Jeanne
Subject: RE: AG Blumenthal & Google Street View

I just spoke to this blogger regarding this story. I do not expect an update from him but we had an amicable chat.

http://biggovernment.com/kboehm/2010/10/28/ftc-drops-investigation-of-google-less-than-a-week-after-company-execs-host-obama-fundraiser/

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
desk 202.326.3220 cell 202.758.7598
Web I Facebook I YouTube

Duplicate

Lupovitz, Joni

From: Lupovitz, Joni
Sent: Friday, October 29, 2010 3:25 PM
To: Matties, Deborah J.
Subject: RE: Barton Google WiFi briefing request

Thanks for the update

From: Matties, Deborah J.
Sent: Friday, October 29, 2010 3:05 PM
To: JDL
Cc: Lupovitz, Joni
Subject: Barton Google WiFi briefing request

Kim also just got a request from Barton's staff for a briefing on Google WiFi. She is handling the same way she's handling the Issa request -- telling them we can do a public briefing without the involvement of majority staff or a nonpublic if Waxman or Markey request it. In this case, however, since we already voted out a non-public briefing for Google investigations for the majority, we wouldn't need to do that again - we'd just need a call from Waxman or Markey to do a nonpublic.

Debbie Matties
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(202) 758-7697 (mobile)

DeLorme, Christine L.

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 6:17 PM
To: Lupovitz, Joni
Cc: DeLorme, Christine L.
Subject: FW: Lots of press tomorrow!

Press plan for tomorrow, fyi.

From: Kaplan, Peter P.
Sent: Tuesday, October 26, 2010 6:01 PM
To: Matties, Deborah J.
Cc: Prewett, Cecelia
Subject: RE: Lots of press tomorrow!

Hi. Actually four items, The plan is:

Not Responsive

Google WiFi will go on the Secy's page in the morning, although not clear the exact time.

Not Responsive

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 5:18 PM
To: Prewett, Cecelia; Kaplan, Peter P.
Subject: Lots of press tomorrow!

I think we have 3 BCP matters tomorrow, right? What is the schedule?

Google WiFi

Not Responsive

Vajs, Katherine C.

From: Debbie Matties (b)(6)
Sent: Sunday, October 24, 2010 9:20 PM
To: Matties, Deborah J.
Subject: Google wifi

http://googleblog.blogspot.com/2010/10/creating-stronger-privacy-controls.html

http://www.mediapost.com/publications/?fa=Articles.showArticle&art_aid=138217

http://www.pcmag.com/article2/0,2817,2371329,00.asp

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Monday, October 25, 2010 10:51 AM
To: Farrell, Claudia B.
Subject: Re: Google wi-fi - heads up for Monday

(b)(5)

-- Debbie

Duplicate

Vajs, Katherine C.

From: Vandecar, Kim
Sent: Monday, October 25, 2010 1:56 PM
To: Matties, Deborah J.
Subject: Google Wi-Fi

Non public briefings to:

House Energy & Commerce committee staff for Markey and Barton (Waxman senior counsel were also in attendance);

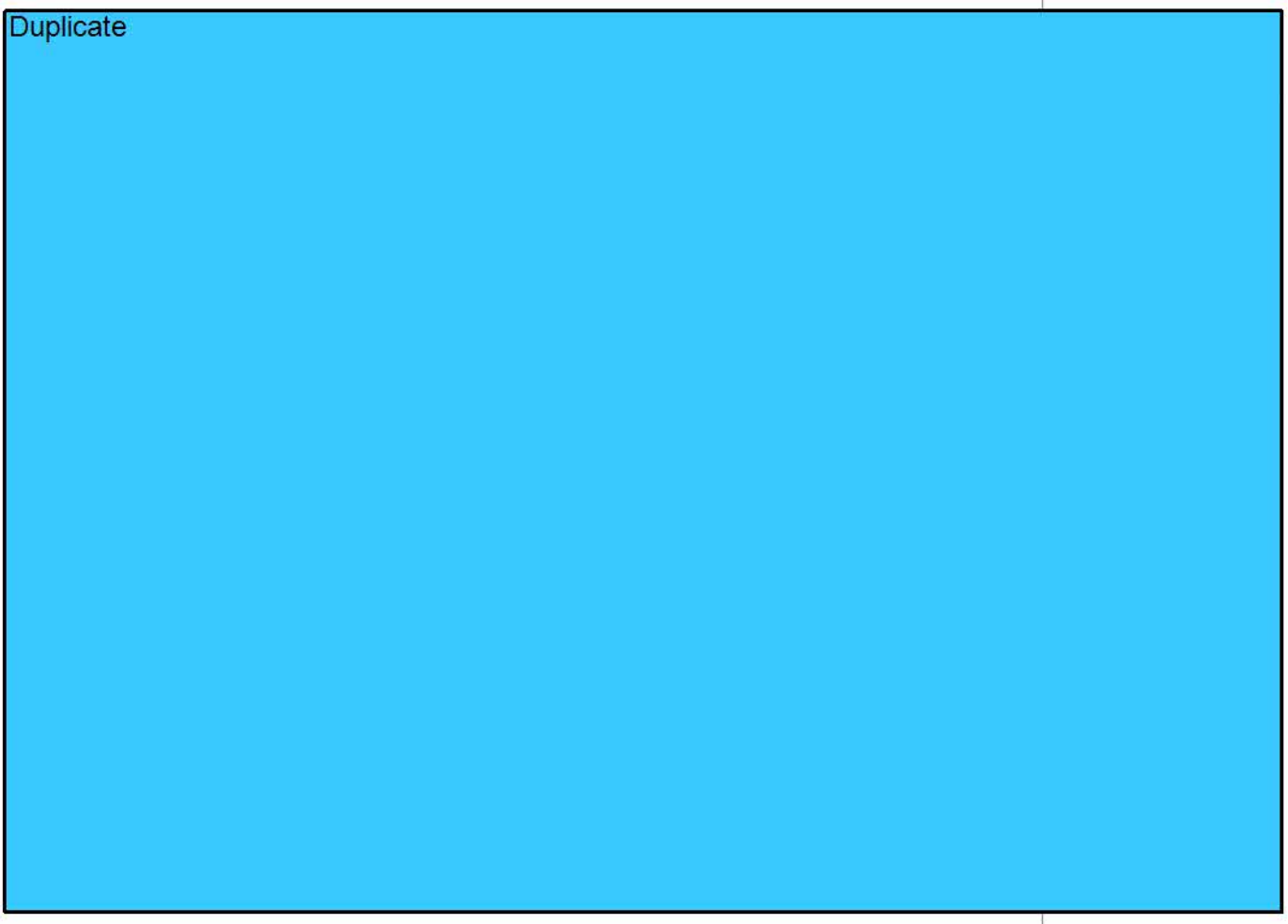
Judiciary committee staff for Kohl and Schumer.

Vajs, Katherine C.

From: Groman, Marc
Sent: Monday, October 25, 2010 3:14 PM
To: Matties, Deborah J.
Subject: RE: talking points on Google wi-fi letter

Thank you.

From: Matties, Deborah J.
Sent: Monday, October 25, 2010 3:10 PM
To: Groman, Marc
Subject: FW: talking points on Google wi-fi letter



Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 1:27 PM
To: Prewett, Cecelia; Farrell, Claudia B.
Subject: FW: Wireless Router Security Education with Google WiFi letter?

Importance: High

Cecelia and Claudia,

We would like to do some consumer education in connection with the Google WiFi letter, if that makes sense. As you know, one of the reasons Google got in trouble is because many consumers' wireless routers were not locked down. This would be a good opportunity to remind consumers that they should secure their wireless networks.

Normally we don't issue releases for closing letters, but is there a way to do a consumer alert here that relates to the closing letter but has as it's main message the consumer education?

See below for some of the materials we have on hand - we won't need to create anything new (and the old stuff from 2006 is being updated, according to Nat).

From: Wood, Nathaniel C.
Sent: Tuesday, October 26, 2010 1:19 PM
To: Matties, Deborah J.; Mithal, Maneesha; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

We also just released a video on wireless security, featuring Yul Kwon of the FCC:
http://www.onguardonline.gov/videos/wireless-secuirty-yul-kwon.aspx

We recently reviewed the article on at OnGuardOnline.gov/wireless, and it's up-to-date except that we have to mention WPA2. Those changes will be live this afternoon.

Nat Wood
Assistant Director, Consumer & Business Education
Bureau of Consumer Protection
Federal Trade Commission

ncwood@ftc.gov
(202) 326-3407

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 12:52 PM
To: Mithal, Maneesha; Shanoff, Carolyn; Wood, Nathaniel C.
Subject: Wireless Router Security Education with Google WiFi letter?

Hi Maneesha and Carolyn - I wasn't able to reach either of you so left messages, and just received an out-of-office from Carolyn so am including Nat as well. We're wondering if with the announcement of the Google WiFi letter we should do some consumer education for wireless routers.

OnGuardOnLine has pretty good information, from May 2006. Does it need updating? Any other

materials we can offer?

http://www.onguardonline.gov/topics/wireless-security.aspx

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(202) 758-7697 (mobile)

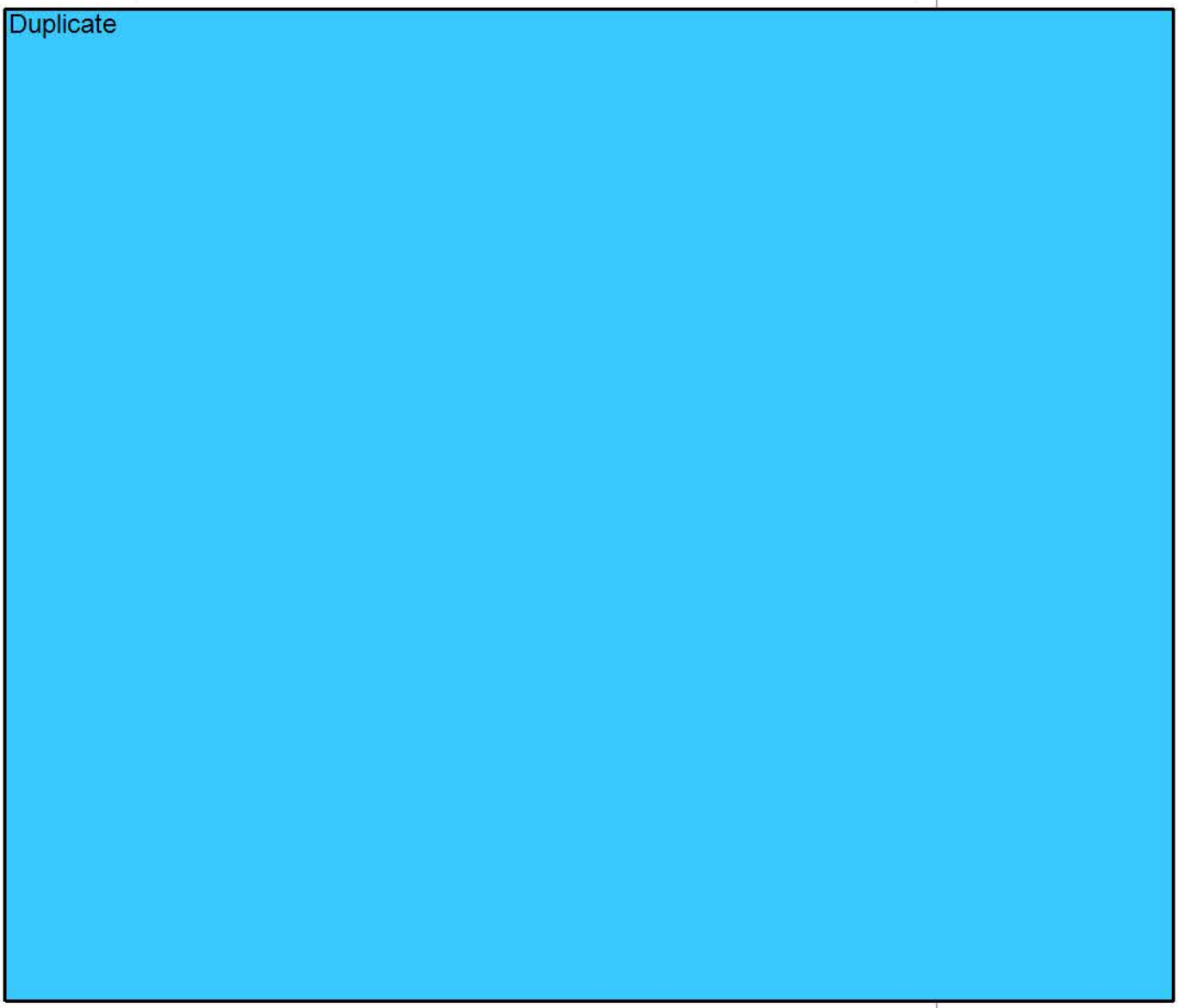
Vajs, Katherine C.

From: Shanoff, Carolyn
Sent: Tuesday, October 26, 2010 1:36 PM
To: Matties, Deborah J.
Subject: Re: Wireless Router Security Education with Google WiFi letter?

Oh man. This guy's fan club just keeps growing! Still sitting...

From: Matties, Deborah J.
To: Wood, Nathaniel C.; Mithal, Maneesha; Shanoff, Carolyn
Sent: Tue Oct 26 13:32:28 2010
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Thanks, Nat! I've forwarded this to Cecelia and Claudia Farrell, to see if they can put something together to highlight these materials. Go Yul! He's so fabulous!



Vajs, Katherine C.

From: Prewett, Cecelia
Sent: Tuesday, October 26, 2010 1:41 PM
To: Matties, Deborah J.; Farrell, Claudia B.
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Claudia is going to weigh in shortly with our thoughts/plans. Thanks

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
600 Pennsylvania Avenue, NW #421
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202.326.3220 desk
202.758.7598 cell & berry
http://www.ftc.gov
http://www.facebook.com/federaltradecommission

Duplicate

Vajs, Katherine C.

From: Wood, Nathaniel C.
Sent: Tuesday, October 26, 2010 2:14 PM
To: Matties, Deborah J.; Farrell, Claudia B.; Prewett, Cecelia
Cc: Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

We've made the changes to the wireless article (adding WPA2). - Nat

---

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 2:09 PM
To: Farrell, Claudia B.; Prewett, Cecelia
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Sorry, I don't know the OPA lingo - What does that mean?

From: Farrell, Claudia B.
Sent: Tuesday, October 26, 2010 2:03 PM
To: Matties, Deborah J.; Prewett, Cecelia
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

We can hang it on the home page.

Duplicate

Vajs, Katherine C.

From: Prewett, Cecelia
Sent: Tuesday, October 26, 2010 3:55 PM
To: Matties, Deborah J.; Farrell, Claudia B.
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

I'm sure Claudia will weigh in as its her issue, but it's our determination to do a soft rollout of this, meaning we send targeted reporters the link and the consumer ed and get traction that way. This worked extremely well for us with the last closing letters we did.

Thanks.

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
desk 202.326.3220; cell 202.758.7598
http://www.ftc.gov
http://www.facebook.com/federaltradecommission

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 3:45 PM
To: Farrell, Claudia B.; Prewett, Cecelia
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

What are the reasons we shouldn't do a release?

From: Farrell, Claudia B.
Sent: Tuesday, October 26, 2010 3:39 PM
To: Matties, Deborah J.; Prewett, Cecelia
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

There are rotating consumer education messages at the top of www.ftc.gov
We can put it up there.

Duplicate

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 4:01 PM
To: Lupovitz, Joni
Subject: FW: Wireless Router Security Education with Google WiFi letter?

OPA does not think a release with the Google WiFi letter is the way to go (see below for more). While normally I think I'd prefer a release here to highlight the consumer education, we'll also be releasing the Enforcement Stay for TSR Tax Debt Relief tomorrow, so there's already a bit going on. On that matter, I still haven't seen either the final statement of enforcement policy or a press release.

Is this soft rollout approach ok with you? Also, see below for awesome new video from Yul at the FCC about securing wireless routers (it's on OnGuardOnLine).

Duplicate

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 5:38 PM
To: Lupovitz, Joni
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Ok, good. We also have the TV Labeling Rule tomorrow – quite a bit going on!

From: Lupovitz, Joni
Sent: Tuesday, October 26, 2010 5:37 PM
To: Matties, Deborah J.
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Soft rollout is fine. I'm not sure that I meant having the consumer ed and the letter all in one release – just looking for ways to get the word out to consumers about importance of good security for wireless.

Thanks for following up!

Duplicate

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 5:39 PM
To: Prewett, Cecelia; Farrell, Claudia B.
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Ok, sounds good. If there's a way to highlight Yul's video in addition to the written wireless consumer ed, that would be great.

Duplicate

Vajs, Katherine C.

From: Young, Kial
Sent: Tuesday, October 26, 2010 5:53 PM
To: Matties, Deborah J.
Subject: Re: Google WiFi letter

Not Responsive

-----Original Message-----
From: Young, Kial
Sent: Tuesday, October 26, 2010 5:45 PM
To: Matties, Deborah J.
Subject: Re: Google WiFi letter

You did cc me -?

----- Original Message -----
From: Matties, Deborah J.
To: Young, Kial
Sent: Tue Oct 26 17:39:38 2010
Subject: FW: Google WiFi letter

Meant to cc you!
-----Original Message-----
From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 4:31 PM
To: Kestenbaum, Janis; Delaney, Elizabeth; Young, Kial; McKewen, Richard; Krainsky, Ella; Winerman, Marc; Cooper, James; Hollman, Hugh
Cc: Mithal, Maneesha; Lupovitz, Joni; DeLorme, Christine L.
Subject: Google WiFi letter

Fyi, here is the final version to be made public tomorrow morning. Thanks to everyone who provided helpful suggestions.

Vajs, Katherine C.

Not Responsive

Duplicate

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 9:33 PM
To: Wood, Nathaniel C.
Subject: Re: Wireless Router Security Education with Google WiFi letter?

Thanks.

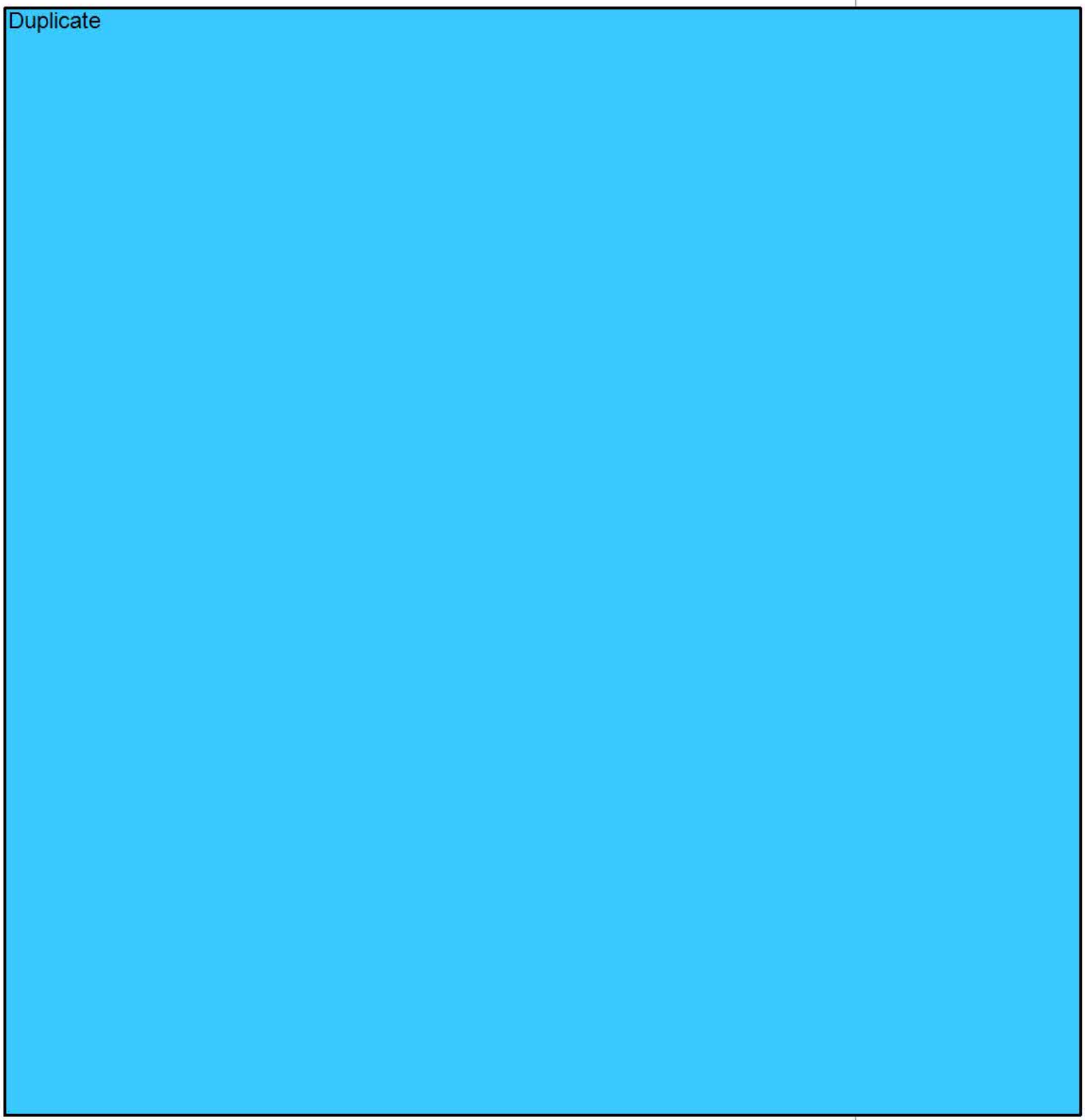
-- Debbie

Duplicate

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Wednesday, October 27, 2010 11:40 AM
To: Farrell, Claudia B.; Prewett, Cecelia
Cc: Wood, Nathaniel C.; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Hey - is the wireless security message in the rotation? Maybe I'm looking in the wrong place but I don't see it. And Yul's video?



Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Wednesday, October 27, 2010 5:02 PM
To: Groman, Marc
Subject: RE: Google Street View

Attachments: Google Wi-fi Petition; RE: Google Street View; RE: Google Wi-fi Petition

Just sending you this stuff fyi. Here's more.

Google Wi-fi Petition | RE: Google Street View | RE: Google Wi-fi Petition

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From: Groman, Marc
Sent: Wednesday, October 27, 2010 4:59 PM
To: Matties, Deborah J.
Subject: RE: Google Street View

You know what I think.

From: Matties, Deborah J.
Sent: Wednesday, October 27, 2010 4:45 PM
To: Groman, Marc
Subject: FW: Google Street View

From: Prewett, Cecelia
Sent: Wednesday, October 27, 2010 4:42 PM
To: Rich, Jessica L.; JDL; Mithal, Maneesha
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.
Subject: RE: Google Street View

Heads up, here's his press release:

http://insidegoogle.com/2010/10/ftc-wrong-to-end-google-probe-americans-entitled-to-full-account-of-abuses/

FTC Wrong To End Google Probe — Americans Entitled To Full Account Of Abuses

CONTACT: John M. Simpson , 310-392-7041; or cell: 310-292-1902

Wed, Oct 27, 2010 at 11:54 am

SANTA MONICA, CA — The Federal Trade Commission's two-page letter ending its probe of the Google Wi-Spy scandal is premature and wrong, Consumer Watchdog said today, and leaves the American public with no official full account of the Internet giant's repeated invasions of consumer privacy.

The FTC's failure to act makes it even more important for Congress to hold hearings on Google's Wi-Spying, in which the company's Street View cars gathered communications from private Wi-Fi networks in 30 countries around the word.

"Once again, Google, with its myriad of government connections, gets a free pass," said John M.

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Wednesday, October 27, 2010 5:48 PM
To: Eichorn, Mark
Subject: RE: Google Street View

Yup, based on your rosy report. ☺

From: Eichorn, Mark
Sent: Wednesday, October 27, 2010 5:39 PM
To: Matties, Deborah J.
Subject: RE: Google Street View

It wasn't so bad!

From: Matties, Deborah J.
Sent: Wednesday, October 27, 2010 4:45 PM
To: Eichorn, Mark
Subject: RE: Google Street View

Lucky you.

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 4:44 PM
To: Prewett, Cecelia; JDL; Mithal, Maneesha
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: Google Street View

Adding Mark, who was going to call him today.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Prewett, Cecelia
Sent: Wednesday, October 27, 2010 4:42 PM
To: Rich, Jessica L.; JDL; Mithal, Maneesha
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.
Subject: RE: Google Street View

Heads up, here's his press release:

http://insidegoogle.com/2010/10/ftc-wrong-to-end-google-probe-americans-entitled-to-full-account-of-abuses/

FTC Wrong To End Google Probe — Americans Entitled To Full Account Of Abuses

CONTACT: John M. Simpson , 310-392-7041; or cell: 310-292-1902

Vajs, Katherine C.

From: Matties, Deborah J.
Sent: Thursday, October 28, 2010 9:12 PM
To: Young, June
Cc: Lupovitz, Joni
Subject: Fw: Richard Blumenthal criticizes Google WiFi letter

June - please add Richard Blumenthal to Jon's call sheet. Thanks!

-- Debbie

Duplicate

Not Responsive

From: Kingsland, Gail M.H.
Sent: Friday, October 29, 2010 11:35 AM
To: 1671DL; 1676DL; 1677DL; 1680; 1684DL; 1688DL; 1689DL; 1691DL; Atleson, Michael; Bauer, Benjamin; Benway, Kathleen; Boone, Calvin; Brill, Julie; Brin, Katherine Race; Broder, Betsy; Bruschi, Terri; Bush, Julie; 'Chadwick, Kyle'; Chesnes, Matthew; Claybaugh, Melinda; Cohen, Kristin; Damtoft, Russell W.; Davis, Michael; Delaney, Elizabeth; DeLorme, Christine L.; 'DeRita, Mike'; Dick, Rebecca; Dickie, Judith A.; Eichorn, Mark; Elbein, Bradley; Espaldon, Karen; Fair, Lesley; Ferguson, Stacey; Feuer, Stacy; Field, Kenneth; France, Laureen; Frankle, Janice Podoll; George, Tiffany; Golden, William P.; Golder, James R.; Gray, Jessica D.; Guerard, Collot; Hanks, Daniel; Hann, Carolyn Lee; Henry, Linda; Herman, Douglas; 'Hernacki, Andrew'; Hodapp, Lawrence; Hrdy, Alice; Hunnicutt, James E.; Jablonsky, Diane L.; Jamison, Priscilla; Johnson, Laura A.; Kallay, Dina; Kando-Pineda, Carol A.; Kane, Thomas E.; Kappler, Burke; Kestenbaum, Janis; Koehler, David K.; Koslov, Tara Isa; Kossow, Todd M.; Kueckelhan, Deanya T.; Kumar, Monica; Lamberton, Peter; Leach, Jennifer; Lejeune, Anne D.; Lowry, Carolyn; Lupovitz, Joni; Mahini, Robert; Marcus, Phyllis; Marrone, Deborah; Matties, Deborah J.; Matz, Bethany E.; McKewen, Richard; Miller, Peter B.; Munck, Suzanne; Murphy, Bevin; Petersen, Cara; Prewett, Cecelia; Pyos, Monica M.; Raitt, Susan; Ramirez, Edith; Razi, Sara; Reeves, Amanda; Reynolds, Stephanie; Rich, Jessica L.; Roach, Patrick J.; Rodriguez, Edwin; 'Rosen, David'; Runco, Philip; Sabo, Melanie; Schifferle, Lisa; Seeba, John; Shanoff, Carolyn; Sinasohn, Gideon; Smith, Michele; Stack, Laura; Stahl, Ann M.; Stevenson, Hugh G.; Stitt, Gloria; Taylor, Mark; Torok, David M.; Tran, Trang (Jan); Triggs, Casey; Trilling, James; Tucci, Elizabeth; Turnblacer, Nancy; Van Wazer, Thomas; Vera, Martha; Villaflor, Maria; Vincent, Nicole; Viswanathan, Serena; Wei, Joannie; Westman-Cherry, Melissa; White, Roxanne; Wiese, David M.; Wilshire, Matthew; Winston, Joel; Woods Bell, Deon; Wronka, Kathleen F.; Young, June; Young, Kial; Zullow, Evan; Zylberglait, Pablo; Bloom, Michael; Farrell, Claudia B.; Fortsch, Gregory W.; Greene, Tom; Maxson, William; 'Rodrigues, Eric'; Schwab, Jennifer; Tressler, Colleen P.; VanDruff, Laura
Subject: Clips Alert

Not Responsive

Not Responsive

TWEETS

Trends: The Google topic continues to generate a lot of attention on Twitter as multiple bloggers have now picked up the story (see yesterday's Tweets with links to major news articles). Many are speculating the White House's involvement with "our decision to drop the case." Also – there's also some focus on the negative reaction by privacy advocates.
Google: @hilliconvalley (2,800 followers) Blumenthal pans FTC's reasons for dropping Google probe http://bit.ly/aU1ZTM; (1,476,650+ follower) FTC Ends Street View Feud With Google After Winning Privacy Concessions http://tcrn.ch/9ufEsL; (22,000+ followers) [Top Story] Feds Let Google Off With Warning for Wi-Fi–Sniffing Cars: The FTC decided not to fine Google for eaves... http://bit.ly/cdbSFw; (7,200+ followers) Privacy Advocates Blast FTC's Inaction Over Street View Spying http://bit.ly/d5yOoH; (47,000 followers) Shocker: FTC Drops Investigation Of Google After Company Executives Hold Obama Fundraiser: There's been no small ... http://bit.ly/bVa97Y; (100+ followers) Weird. Google execs raise $1.8M at a fundraiser for Obama and less than a week later the FTC mysteriously closes its Google investigation. (1,200+ followers) FTC lets Google off the hook, Europeans still fuming http://goo.gl/fb/h1ThH #digg #Popular

Not Responsive

Vajs, Katherine C.

From: Rich, Jessica L.
Sent: Wednesday, November 03, 2010 9:11 AM
To: Vladeck, David; Matties, Deborah J.
Subject: FW: wifi and the UK

As I mentioned at the meeting yesterday – letter from UK on Google WiFi.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Olsen, Christopher
Sent: Tuesday, November 02, 2010 4:38 PM
To: Mithal, Maneesha; Rich, Jessica L.; Eichorn, Mark
Subject: RE: wifi and the UK

If you're on your blackberry, here's the paragraph I was highlighting with the key sentence at the end:

"It is also important to note that none of the regulators currently investigating Google Street View have taken direct enforcement action at this stage, with the US investigation led by the US Federal Trade Commission for example ruling out direct action, although mirroring our own concern that this data was allowed to be collected by an organisation who showed such disregard for international data protection legislation. This week the Metropolitan Police have also closed their case believing it would not be appropriate to pursue a criminal case against Google under the Regulation of Investigatory Powers Act (RIPA). Whilst we continue to work with our other international counterparts on this issue we will not be panicked into a knee jerk response to an alarmist agenda."

From: Olsen, Christopher
Sent: Tuesday, November 02, 2010 1:57 PM
To: Mithal, Maneesha; Rich, Jessica L.; Eichorn, Mark
Subject: Re: wifi and the UK

For what it's worth, a different viewpoint on the wifi issue from a sister regulator. Check out the last sentence.

http://www.ico.gov.uk/~/media/documents/pressreleases/2010/ICO_statement_Street_View_0111201

Christopher N. Olsen
Assistant Director
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Ave., NW
Mail Stop NJ-8122
Washington, DC 20001
tel. 202 326-3621
fax 202 326-3768

Anderson, Emily L.

From: Rich, Jessica L.
Sent: Wednesday, November 03, 2010 10:44 AM
To: Prewett, Cecelia; Vladeck, David; Lupovitz, Joni; JDL; Farrell, Claudia B.
Subject: Re: White House Internet privacy committee puts out charter

I would think we'd want to say we intend to be active participants, though we are an independent agency with our own authority, projects, and timetables. In that vein, we might also want to clarify we are doing our own report as the article is confusing.

Fyi - I will be attending the sessions, as will Hugh, given the int'l dimension. There's a meeting tomorrow. In Hugh's absence, I'm bringing Yael.

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

From: Prewett, Cecelia
To: Vladeck, David; Rich, Jessica L.; Lupovitz, Joni; JDL; Farrell, Claudia B.
Sent: Wed Nov 03 09:43:03 2010
Subject: White House Internet privacy committee puts out charter

I just hung up with JDL, he asked me to talk to you all about huddling on this.

So far no questions from reporters.

WaPo: White House Internet privacy committee puts out charter

White House Internet privacy committee puts out charter

The **White House**'s inter-agency committee on Internet privacy will come up with a white paper and policy and legislative guidelines in its two-year term, according to a charter statement (pdf).

White House Chief Technology Officer Aneesh Chopra, Chief Information Officer Vivek Kundra and **Senior Adviser on Technology Philip Wiser** said the group would draw members from more than a dozen agencies to look at privacy issues that stem from electronic health records, smart electricity grids and cloud computing.

The group, formed last month, comes amid increasing concerns over privacy flaps by U.S. companies such as Google and Facebook on how those firms handle user data. Google has faced increased scrutiny by European regulators for its Street View mapping service and its accidental data breach of residential Wi-Fi networks from cars that roam streets around the world for the mapping application.

But privacy advocates say that without a mission to create rules or laws, the group could favor corporations who resist government attempts to limit their ability to collect, store and share user data with advertisers.

Following are the group's three main tasks:

1. To produce a **white paper** from policy work taking place at the Commerce Department and Federal Trade Commission. The FTC is expected to release a report within weeks with policy recommendations on how to protect Internet users from harmful business practices.

The charter is sensitive to business needs, with White House officials saying the group will "examine the role of governments in ensuring that national regimes do not unduly impede the innovation and efficiency gains derived from leveraging a globalized network."

2. The group will come up with "**general principles**" for a domestic and global Internet privacy framework. That framework will reflect the work of White House efforts on cybersecurity and anti-counterfeiting.

3. The group will be the first stop for any government **statements** on privacy.

By Cecilia Kang | November 2, 2010; 5:22 PM ET

Souers, Jennifer L.

From: Young, Kial
Sent: Wednesday, October 27, 2010 2:54 PM
To: Brill, Julie
Cc: McKewen, Richard
Subject: FYI, Google Street View press

(CNN) -- The U.S. Federal Trade Commission has called off its investigation of Google's "Street View" mapping program without issusing fines to the company, according to a letter sent from the FTC to Google on Wednesday.

The federal agency had been investigating the fact that Google collected communications, including passwords and e-mails, from people who used open Wi-Fi networks in their homes.

The data collections, which Google says were inadvertent, happened while Google was driving around taking pictures for the Street View function on Google Maps, the Mountain View, California, company said.

The FTC said Google has sufficiently addressed the problem.

"Google has made assurances to the FTC that the company has not used and will not use any of the payload data collected in any Google product or service, now or in the future," David C. Vladeck, the FTC's director for consumer protection, says a letter to Google, which was posted on the FTC's website.

"This assurance is critical to mitigate the potential harm to consumers from the collection of payload data. Because of these commitments, we are ending our inquiry into this matter at this time."

Google, which first mentioned the fact that it had "sniffed" this Wi-Fi data in May, said in a blog post last week that the data included more sensitive information than was previously thought.

"In some instances entire e-mails and URLs were captured, as well as passwords," Alan Eustace, Google's senior vice-president of engineering and research, wrote in a post on that company's blog.

Wednesday's FTC letter acknowledges Google has made changes since investigators uncovered the privacy breaches.

Those changes include "appointing a director of privacy for engineering and product management; adding core privacy training for key employees; and incorporating a formal privacy review process into the design phases of new initiatives."

The FTC letter states: "The company also publicly stated its intention to delete the inadvertently collected payload data as soon as possible."

The United States, however, isn't the only country that's been investigating Google's data collections in relation to Street View, a function of Google Maps that lets users see what streets look like from a man-on-the-street point of view.

More on the international scope of this issue from a CNN explainer:

Last week, the Canadian government said that Google broke the country's law by collecting the data but closed an investigation after calling it "a careless error."

In France, a commission that began investigating this summer ruled that personal data had been collected. Authorities cracked down, even pulling over Street View vehicles to make sure they had stopped collecting

personal information.

The Czech Republic has banned Google from expanding the service, and the news sparked an online privacy debate in Germany, where Google is allowing people to opt out of Street View before the images go live.

Great Britain, however, determined that none of the information gathered there was sensitive.

Souers, Jennifer L.

From: McKewen, Richard
Sent: Tuesday, October 26, 2010 4:42 PM
To: Brill, Julie
Subject: Fw: Google WiFi letter

Attachments: wi fi letter 10.26.10.wpd; redline..wpd

wi fi letter .0.26.10.wpd (177..

redline..wpd (181 KB)

Fyi

- - -
Sent from my BlackBerry mobile device.

----- Original Message -----
From: Matties, Deborah J.
To: Kestenbaum, Janis; Delaney, Elizabeth; Young, Kial; McKewen, Richard; Krainsky, Ella; Winerman, Marc; Cooper, James; Hollman, Hugh
Cc: Mithal, Maneesha; Lupovitz, Joni; DeLorme, Christine L.
Sent: Tue Oct 26 16:31:03 2010
Subject: Google WiFi letter

Fyi, here is the final version to be made public tomorrow morning. Thanks to everyone who provided helpful suggestions.

Souers, Jennifer L.

From: Brill, Julie
Sent: Tuesday, October 26, 2010 4:41 PM
To: McKewen, Richard
Subject: Re: Google wi-fi

Has this gone out such that it is public? Thanks. --j

From: McKewen, Richard
To: Brill, Julie
Sent: Mon Oct 25 16:49:27 2010
Subject: Fw: Google wi-fi

Fyi.

- - -
Sent from my BlackBerry mobile device.

Duplicate

Souers, Jennifer L.

From: Brill, Julie
Sent: Monday, October 25, 2010 5:08 PM
To: McKewen, Richard; Young, Kial
Subject: Re: Google wi-fi

(b)(5)

(b)(5) Thanks much! -- j

Duplicate

Souers, Jennifer L.

From: Young, Kial
Sent: Monday, October 25, 2010 4:59 PM
To: McKewen, Richard
Subject: FW: Google wi-fi

FYI

From: Young, Kial
Sent: Monday, October 25, 2010 4:55 PM
To: Brill, Julie
Subject: FW: Google wi-fi

Hi, Julie. I understand from Richard that David has already briefed you on the letter he wants to send to Google and make public tomorrow. I assume you are fine with the proposal? In case you want to see it, I have pasted the text of the draft letter under Maneesha's email below. -- kial

Duplicate

Souers, Jennifer L.

From: McKewen, Richard
Sent: Monday, October 25, 2010 4:55 PM
To: Young, Kial
Subject: Re: Google wi-fi

Let her look at it. We saw the version that was floating around the bureau a couple of days ago. I don't know what changes there are.

- - -
Sent from my BlackBerry mobile device.

From: Young, Kial
To: McKewen, Richard
Sent: Mon Oct 25 16:51:06 2010
Subject: RE: Google wi-fi

Really? Am I that irrelevant this week? Should I just tell folks she's ok with it then?

From: McKewen, Richard
Sent: Monday, October 25, 2010 4:51 PM
To: Young, Kial
Subject: Re: Google wi-fi

No but thanks.

- - -
Sent from my BlackBerry mobile device.

From: Young, Kial
To: McKewen, Richard
Sent: Mon Oct 25 16:50:20 2010
Subject: RE: Google wi-fi

Thx. I was about to email you both the text of the draft letter -- should I still do so?

From: McKewen, Richard
Sent: Monday, October 25, 2010 4:50 PM
To: Young, Kial
Subject: Re: Google wi-fi

Julie and David talked about this.

- - -
Sent from my BlackBerry mobile device.

Duplicate

Souers, Jennifer L.

From: McKewen, Richard
Sent: Monday, October 25, 2010 4:49 PM
To: Brill, Julie
Subject: Fw: Google wi-fi
Attachments: wi fi letter 10.25.10.wpd

Fyi.

- - -
Sent from my BlackBerry mobile device.

Duplicate

Souers, Jennifer L.

From: Vladeck, David
Sent: Sunday, October 24, 2010 2:27 PM
To: Brill, Julie; McKewen, Richard; Weinman, Yael
Subject: Fw: Google wi-fi - heads up for Monday
Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

Fyi

From: Rich, Jessica L.
To: Vladeck, David
Sent: Sun Oct 24 08:34:39 2010
Subject: Fw: Google wi-fi - heads up for Monday

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Not Responsive

Young, Kial

From: Prewett, Cecelia

Sent: Monday, May 24, 2010 9:15 AM

To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel

Subject: Early Clips 5.24.10

Not Responsive

Not Responsive

WaPo: Internet privacy comes to head; Facebook to change tools, Google accused of wiretapping

Internet privacy is having its moment. From flaps at Facebook and Google over the past several months to growing anger by consumers and lawmakers calling for investigations and punishment, the once sleeper issue has gained a sense of urgency in Washington and it appears that companies and regulators are responding.

Facebook founder Mark Zuckerberg said in an op-ed in The Washington Post this morning that his company has heard the uproar over changes to its privacy tools and will soon announce changes that will make it easier for users to control and hide user data on the Web. Privacy groups and regulators around the world, meanwhile, have blasted Google for collecting personal information through its Street View application. One privacy group called for an investigation by the Federal Communications Commission, saying Google was essentially wiretapping through its Street View program.

"Thanks to both Google and Facebook, we have all the elements of a perfect privacy storm," said Jeffrey Chester, executive director of privacy group, the Center for Digital Democracy. "There are organized and spontaneous consumer protests; investigations by officials on both sides of the Atlantic, and a Congress finally waking up to this issue. We also have a Federal Trade Commission poised to better address the issue, given new leadership there."

The concerns come after years of what some users now describe as oversharing on the Internet. From vacation photos to employment history on social networks and other Web sites, users had been sharing freely about intimate personal details with comfort in the masses. And now they are feeling burned and

blindsided by changes that have exposed them more greatly then they initially envisioned, privacy advocates and security experts say. Several grass-roots movements like QuitFacebookDay.com, have called for users to abandon their social networking accounts. QuickFacebookDay has more than 13,000 users commited to quit the site on May 31.

Those changes in privacy policy and security breeches has caused a shift in attitudes, some experts say.

"Brand integrity is extremely important and companies aren't approaching things holistically when it comes to privacy and security from the start," said Hemu Nigam, the former chief security officer for News Corp.'s MySpace. "At this point, there is not time for growing pains or excuses. Not thinking about these issues early will hurt a company's brand in the long term and advertisers will pull out."

Facebook's Zuckerberg wrote Monday that the social networking goliath will make it simpler for its 400 million users to determine who gets to see their profiles, pictures and postings. And spokesman Andrew Noyes said in a statement last Friday that the firm will make it easier for users to opt out of programs that allow the Web site to share data with advertisers. It doesn't appear that Facebook will change its policy of sharing data with advertisers unless explicitly told by users otherwise (known as opting out of the practice).

"Facebook has been growing quickly," Zuckerberg said. "It's a challenge to keep that many people satisfied over time."

Of specific complaints by users, privacy advocates and lawmakers, Zuckerberg said:

"Simply put, many of you thought our controls were too complex... We missed the mark," he said. "In the coming weeks we will add privacy controls that are much simpler to use. We will also give you an easy way to turn off all third-party services."

Lawmakers, including Senator Charles Schumer (D-NY) called for the Federal Trade Commission to investigate Facebook's privacy tools, including how changes last December made some profile information more widely available to other Web users. The lawmaker also called for the FTC to look into new business programs in recent weeks that have made user data more broadly available to advertisers. Last week, Facebook said it would remove a program that share user identifications and other information to advertisers when a user clicked on an advertisement. The discovery was made by The Wall Street Journal.

Greater scrutiny by regulators and lawmakers are already in the works. The FTC is working on a privacy framework for social networking sites. Rep. Rick Boucher's bill on online privacy allows advertisers to gain access to user data but may place some curbs on how much data is collected, particularly for location-based services.

Indeed, there is growing pressure for regulators to punish online social networking sites and applications for collecting too much user data. Reps. Ed Markey (D-Mass.) and Joe Barton, called for an FTC investigation and the agency appears to be looking into the practice first discovered by European regulators.

The Electronic Privacy Information Center sent a letter last Friday to the Federal Communications Commission, asking for an investigation into Google's for its collection of user data off its Street View application. In the letter to FCC Chairman Julius Genachowski, Rotenberg said Google collected any data sent to and from a residential WiFi account, which amounted to a violation of communications

laws. Specifically, he said the activity broke federal wiretap laws.

"The Wiretap Act provides for civil liability and criminal penalties against any person who 'intentionally intercepts, endeavors to intercept, or procures any other person to intercept . . .electronic communications," Rotenberg wrote.

He has complained that regulators and lawmakers haven't been tough enough on Internet search engines, social networks and publishers for scarfing up user information to monetize into ads.

"It's time for Congress to hold hearings and for the FCC and FTC to undertake enforcement actions," Rotenberg said.

By Cecilia Kang | May 24, 2010; 8:00 AM ET

Not Responsive

Not Responsive

USA Today

Protests widen over Google's Wi-Fi data harvesting

07:43 PM

Canadian regulators said on Tuesday they will contact officials in nine other nations to discuss Google's collection of citizens' data transmitted over open Wi-Fi systems.

"We are shocked and deeply concerned about this," says Anne-Marie Hayden, spokesperson for Canadian Privacy Commissioner Jennifer Stoddard. "We're in touch with our international counterparts to examine next steps that could include enforcement action."

At issue is Google's recent disclosure <http://googleblog.blogspot.com/2010/05/wifi-data-collection-update.html> that it has been using a practice known as "war driving" <http://en.wikipedia.org/wiki/Wardriving> to gather data moving across unprotected Wi-Fi networks in homes and businesses across North America, Europe, Australia and Asia. Since 2007, the company has dispatched photographers in vehicles to take snapshots of street scenes in major cities for use in Google maps. But cars were also equipped to capture Wi-Fi signals within range of the vehicle.

After German officials inquired about this practice, Google on April 27 said it was collecting <http://googlepolicyeurope.blogspot.com/2010/04/data-collected-by-google-cars.html> only basic Wi-Fi information. But on Friday Google admitted <http://googlepolicyeurope.blogspot.com/> that it also has been erroneously collecting personal data transmitted by Wi-Fi networks. It grounded the cars and apologized.

"Maintaining people's trust is crucial to everything we do, and in this case we fell short," Alan Eustace, senior vice-

president of engineering and research, says in a blog post.

Google already has heeded a request by Ireland to destroy any personal data of Irish citizens collected.

Meanwhile, the U.S. Federal Trade Commission is reviewing a letter from advocacy group Consumer Watchdog calling for <http://www.consumerwatchdog.org/corporateering/articles/?storyId=34304> a federal probe of Google's data harvesting practices. "They said they weren't doing this, then a month later they claimed they were doing it, but it was by mistake," says John Simpson, spokesman for the group.

By Byron Acohido

Consumer Watchdog

May 17, 2010

The Hon. Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Ave.
Washington, DC
20580

Dear Chairman Leibowitz,

I am writing to ask the Federal Trade Commission to investigate Google Inc.'s "WiSpy" debacle, in which the Internet giant's Street View cars snooped for years on home Wifi networks and gathered private communications data sent over them.

Less than a month ago Google was publicly asserting that it did not collect private WiFi "payload" data. Last Friday Google changed course. It abruptly claimed it had made a "mistake" and hadn't realized its Street View cars were snooping on private WiFi networks all along.

Google has demonstrated a history of pushing the envelope and then apologizing when its overreach is discovered. Given its recent record of privacy abuses, there is absolutely no reason to trust anything the Internet giant claims about its data collection policies.

(b)(5)

We call on the Federal Trade Commission to document what data Google has been gathering, for how long and what the company has done with it. Google's suggestion for a third-party audit is inadequate. That would be like getting to pick and pay the referees in a championship basketball game.

The Commision has the authority and public trust necessary to get to the bottom of Google's dubious data collection practices and reveal exactly how consumers' privacy has been compromised and what remedies are required. The Commission must determine what Google knew and when Google knew it. We urge you to launch an investigation immediately.

Sincerely,

John M. Simpson
Consumer Advocate

Cc: Commissioner Julie Brill; Commissioner William E. Kovacic, Commissioner J. Thomas Rosch; Commissioner Edith Ramirez; David Vladeck, Director Bureau of Consumer Protection

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Santa Monica, CA 90405-4938
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EXPOSE. CONFRONT. CHANGE.

www.ConsumerWatchdog.org

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BRYAN CAVE

Jeffrey A. Modisett
Direct: (310) 576-2370
Fax: (310) 576-2200
jamodisett@bryancave.com

May 17, 2010

VIA EMAIL AND FEDEX

Honorable Julie Brill
Commisioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Commissioner Brill:

I am one among many people who are deeply concerned by Google's recent admission that for years the company has been secretly intercepting consumers' personal information without notice or consent in connection with its Street View Service. As Google employees drove through Washington, D.C. (and North Carolina, Vermont, Indiana, California, etc.) neighborhoods taking pictures for its mapping service, Google also accessed private wireless networks and collected personal information that could include private email messages, bank account information, online purchases, and a record of the websites a consumer has visited. In addition to home consumer networks and Internet cafés (*e.g.*, Starbucks wi-fi), the Street View cars could have been snooping on business, government, and other institutions' network traffic. The Street View car may have obtained all sorts of data, especially from people connecting to mail and web servers over unencrypted (SSL/TLS; *e.g.*, http rather than https) connections.

Although, as you know, I myself was a state attorney general in Indiana, I do not presume to be an expert in federal communications law. However, it appears to me that Google's activities violated the privacy and trust of most Americans. Consumers had no reason to suspect that the Google Street View vehicles were surreptitiously monitoring their Internet activities. Indeed, just a few weeks ago, Google told regulators that it was not collecting personal information in connection with the Street View service. Consumers have a right to know how Google collected, used, and shared their personal information. Google's failure to notify consumers and provide choice regarding these practices raises serious questions about Google's commitment to consumer privacy.

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Singapore
Tokyo

To help ensure that a privacy incident of such significance and scale does not happen again, I respectfully suggest that the FTC consider investigating whether Google's actions violate federal law, including statutes and regulations prohibiting unlawful wiretapping, computer trespass, and unfair and deceptive trade practices.

(b)(5)

Of immediate importance, Google should be ordered to preserve all relevant evidence, including the retention of any and all documents, data, e-mail communications, and any other materials related to Google's collection, use, and disclosure of consumers' personal information. Google has already destroyed the personal data they obtained in Ireland. It is essential that Google take immediate steps to ensure that no additional evidence is destroyed.

Consumer privacy is a fundamental value that Google is required by federal law to respect, and which must be reflected in the company's actions as well as in its policies. But Google has a long track record of privacy lapses, including an incident earlier this year where Google disclosed the personal information of millions of Americans without adequate notice or consent through its Google Buzz service. It is deeply concerning that Google — a company that collects data about millions of consumers every minute — has repeatedly failed to take consumer privacy seriously. To prevent such privacy lapses in the future, it strikes me that it is time for a full-scale and public audit of Google's data collection, use and disclosure practices.

Thank you for your time and consideration of this important consumer protection issue. Please don't hesitate to contact me if you have any questions.

Sincerely,

Jeff Modisett
JFF

What Experts are Saying About Google Wi-Fi

Consumer Advocates

Consumer Watchdog called on the FTC to document what data Google has been gathering, for how long and what the company does with it. "The FTC needs to ask what did Google know and when did Google know it," said Simpson.

The FTC has the authority and public trust necessary to get to the bottom of Google's dubious data collection practices, Consumer Watchdog said. The probe should reveal exactly how consumers' privacy has been compromised and what remedies are required.

"Google's suggestion for a third-party audit is inadequate," said Simpson. "That would be like like getting to pick and pay the referees in a championship basketball game. This investigation must be done by a regulatory authority capable of imposing real sanctions."
--John Simpson, Advocate, Consumer Watchdog

Consumer Watchdog Calls on FTC to Investigate Google's WiFi Snooping;
Consumer Watchdog; By John M. Simpson, May 17, 2010

"Once again, Google has demonstrated a lack of concern for privacy," said Consumer Watchdog's John Simpson. "Its computer engineers run amok, push the envelope and gather whatever data they can until their fingers are caught in the cookie jar. Then a Google executive apologizes, mouthing bafflegab about how privacy matters to the company."

"The takeaway from this incident is the clear need for government oversight and regulation of the data all online companies gather and store,"
--John Simpson, Advocate, Consumer Watchdog

Google's WiFi Debacle Shows Internet Giant's Lack of Concern for Consumers' Privacy;
Consumer Watchdog; By John M. Simpson; May 17, 2010

This may be one of the most massive surveillance incidents by a private corporation that has ever occurred", said Marc Rotenberg, leader of the nonprofit Electronic Privacy Information Centre in Washington. "It is unprecedented vacuuming of WiFi data by a private company. Can you imagine what would happen if a German corporation was sending cars through Washington sucking up all this information?"
-- Marc Rotenberg, Executive Director, Electronic Privacy Information Center

Google set for probes on data harvesting; *Financial Times*;
By Joseph Menn, Daniel Schafer, and Tim Bradshaw; May 17, 2010

"I think this is going to damage the company irreparably," said Simon Davies, the director of Privacy International, a London-based group of privacy advocates from 40 countries. "Three years ago the company was wearing a halo. But over the past year it has moved substantially in the direction of being perceived as Big Brother."
--Simon Davies, Director, Privacy International

Google's Data Collection Angers European Officials; *New York Times*;
By Kevin J. O'Brien; May 15, 2010

There's some question whether Google was violating US wiretap laws by collecting such data. Federal wiretap law criminalizes interception of communications only if it was intentional, and that requirement is generally read fairly strictly, said Jennifer Granick, a senior staff attorney for the Electronic Freedom Foundation.

Google is "saying it's an accident and that may be a good enough excuse to get them out of the wiretap liability," she told The Register. *If an inquiry "confirms what they're saying, then there's not criminal intent, but they may still be subject to criminal investigation."*
-- Jennifer Granick, Senior Staff Attorney, Electronic Freedom Foundation

Google Street View snooped WiFi for personal data; *UK Register*;
By Cade Metz and Dan Goodin; May 14, 2010

Ginger McCall, a staff counsel with the Electronic Privacy Information Center (EPIC), a public watchdog, calls the data collection a "violation of customers' trust," and she questions Google's claim that it was collecting the data by mistake. "People need to ask why was Google was collecting this information," McCall told The Reg. "It's difficult to believe that this would be done accidentally."

"This really flies in the face of their assertion that customers should just trust them."
--Ginger McCall, Staff Counsel, Electronic Privacy Information Center

Google Street View snooped WiFi for personal data; *UK Register*;
By Cade Metz and Dan Goodin; May 14, 2010

Marc Rotenberg, executive director of the Electronic Privacy Information Center in Washington, said that Friday's news would "give quite a bit of ammunition to not only the European privacy commission but the European public, which has been very uneasy about Street View, far more than in the U.S."
-- Marc Rotenberg, Executive Director, Electronic Privacy Information Center

Google Says It Collected Private Data by Mistake; *New York Times;*
By Brad Stone; May 14, 2010

"The problem is [Google] have a bunch of engineers who push the envelope and gather as much information as they can and don't think about the ramifications of that."
--John Simpson, Advocate, Consumer Watchdog

Dr Ian Brown, an expert on privacy and cyber security at the Oxford Internet Institute, told BBC News the wi-fi data collection was part of an idea to accurately map a user's location on Google Map and Street View. "The idea was to use to the different signals and strengths from wi-fi and phones to position a users - think of it as a sort of GPS.

"However, there are concerns in many countries that Google has broken numerous data protection and privacy laws by collecting this data and I expect a clutch of lawsuits to follow," he said.
--Dr. Ian Brown Oxford Internet Institute

Google Admits WiFi Data Collection Blunder;
BBC News; By Maggie Shiels; May 14, 2010

"They seem to be responsive to the problem, rather than brushing it under the rug," said Conley, who focuses on technology and civil liberties at the ACLU of Northern California in San Francisco. "Today's response was definitely good. They've admitted that was a fairly bad failure on the trust scene because they've been doing this for a while."
--Chris Conley, Fellow, American Civil Liberties Union

Google Mistakenly Collected Wi-Fi Network Information (Update3); *BusinessWeek*;
By Joseph Galante and Brian Womack; May 14, 2010

"It is another example of the how the company hasn't effectively grappled with the massive amount of information it collects," said Jeffrey Chester, executive director of the Center for Digital Democracy.
-- Jeffrey Chester, Executive Director, Center for Digital Democracy

Google Says It Mistakenly Collected Data on Web Usage;
Wall Street Journal; May 14, 2010

Government and Policy Makers

Peter Schaar, the German commissioner for data protection, called for a "detailed probe" by independent authorities into the practice by Google. He said the group's explanation of the collection of data as an accident was "highly unusual".

"One of the largest companies in the world, the market leader on the internet, simply disobeyed normal rules in the development and usage of software," he said.
-- Peter Schaar, Federal Commissioner for Data Protection, Germany

Google set for probes on data harvesting; *Financial Times*;
By Joseph Menn, Daniel Schafer, and Tim Bradshaw; May 17, 2010

"So everything was a mistake, a software bug! The data was collected and stored without the authorisation of the project's managers or even the company's managers. If go along with this story, this means the software was used without having been properly tested beforehand," he says. "It acquired billions of records unintentionally, without anyone in the company noticing, not even Google's internal data protection officials, who were still defending the company's practices two weeks ago."
-- Peter Schaar, Federal Commissioner for Data Protection, Germany

German official doubts Google's story on illegal data gathering; *TG Daily*;
By Emma Woollacott; May 17, 2010

"Based on the information we have before us, it appears that Google has illegally tapped into private networks in violation of German law," Ms. Aigner said. "This is alarming and further evidence that privacy law is a foreign concept to Google."
--Ilse Aigner, Minister for Food, Agriculture, and Consumer Protection, Germany

Google's Data Collection Angers European Officials;
New York Times; By Kevin J. O'Brien; May 15, 2010

Johannes Caspar, the data protection supervisor for Hamburg, who is leading the German government's dealings with Google on the issue, said the company's revelation of illegal data collection would be taken up by a panel of European national data protection chiefs that advises the European Commission.

"This is a data scandal of a much larger magnitude," Mr. Caspar said. "We are talking here about the large-scale collection of private data on individuals." He declined to speculate what action European officials might take.

Mr. Caspar said he had inspected one of Google's Street View recording vehicles at the company's invitation this month and had noticed that the recording device's hard drive had been removed. When he asked to view the drive, he said he was told he couldn't read the information anyway because it was encoded. He said he pressed Google to disclose what type of information was being collected, which prompted the company to examine the storage unit. "I am glad that this cat-and-mouse game with Google is finally over," Mr. Caspar said. "I hope now that the company does what it says it will do."
--Johannes Caspar, Data Protection Supervisor, Hamburg

If Google's software makes a mistake, it could be costly for the company. Till Steffen, the justice senator for the city-state of Hamburg, where Google's German headquarters is located, said Google's latest disclosure raised questions about its intent to follow local laws.

Mr. Steffen has introduced a bill in the German Parliament that would fine Google for displaying personal property in Street View without the consent of owners. On Saturday, he demanded that Google turn over the illegally obtained information to regulators.

"Google is in the process of frittering away its last shred of credibility," Mr. Steffen said. "The company must immediately disclose to what degree it has secretly eavesdropped as we've sent e-mails to friends in Germany and the rest of Europe or as we've done our banking in the Internet."

Mr. Steffen on May 7 introduced a bill in the upper house of the German Parliament that would fine Google 50,000 euros, or $62,500, for each time it failed to remove the personal property of a citizen who requested to be exempted from Street View. Action on the bill is not likely before summer.
--Till Steffen, Justice Senator, Hamburg, Germany

Google's Data Collection Angers European Officials;
New York Times; By Kevin J. O'Brien; May 15, 2010

Minister Ilse Aigner said the "alarming incident" showed that Google still lacks an understanding of the need for privacy. "According to the information available to us so far, Google has for years penetrated private networks, apparently illegally," her office said in a statement Saturday.

The ministry also accuses Google of withholding information requested by German regulators....

"It also has to be disclosed to German data protection agencies which information is registered and how the illegitimately gathered data of unprotected wireless networks will be deleted," Aigner's ministry said.
--Ilse Aigner, Minister for Food, Agriculture, and Consumer Protection, Germany

Germany lashes out at Google for privacy breach;
Associated Press; May 15, 2010

Privacy Commissioner Marie Shroff said today: "Concerns are currently being expressed about reports that Google has collected wi-fi information during its Street View operation in New Zealand.

I am surprised that the public was not more clearly told beforehand if Google would be collecting other information with its Street View cars. It is good practice to tell people in advance what information is being collected and what that information will be used for. However, we need to find out more details from Google before we can identify privacy issues that might arise.

We have now contacted Google for confirmation that they collected wireless network information when doing Street View filming in New Zealand. We would also like to know for example whether information will identify the type of device, name of the network, whether the network was secure or unsecured and how the information will be used. Once we have some more detail we will decide whether further action or comment is required."
-- Marie Shroff, Privacy Commissioner, New Zealand

Privacy Commissioner surprised Google did not inform public of Wi-fi Information Collection;
New Zealand Press Association Media Release; May 14, 2010

1. *What type of wireless network information is Google collecting (i.e. what beyond the SSID and MAC address is being recorded)?*

2. *What is the purpose of collecting this data?*

3. *Beyond the purposes that led to its collection, how does Google intend to use, store and make available this information?*

4. *What other information, beyond that mentioned in the blog post, does Google collect as part of its provision of the StreetView product, beyond the recently revealed wireless network information, and self evident information such as visual depictions of streets?*

--Geordie Guy, Vice-Chair, EFA and Dan Svantesson, Vice-Chair, APF, and Chair APF Internet SubCommittee in a letter to Iarla Flynn, Google Australia's head of policy

Letter from Australian Privacy Foundation Electronic Frontiers Australia;
Privacy.org.au; May 13, 2010

"The question is why an organisation like Google that already knows so much about individuals, that is driving around and taking photos of every street in Australia, is collecting data that could enable it to physically map that information to a physical street and presumably a physical house."

"In terms of what they are collecting about Wi-Fi networks, there's a bajillion questions we have that aren't answered there, and we're likely to have more. Google talks about wireless routers at home but what about the printers, computers, mobile phones and other devices that might be sending out wireless information?"
--Geordie Guy, Vice-Chairman, Electronic Frontiers Australia

Please explain: why Google wants your Wi-Fi data;
Sydney Morning Herald; By Louisa Hearn; May 13, 2010

GEORDIE GUY: If someone rang up and said hey, can you ring up the serial number off the back of your DVD player for me, you'd tell them to go away. So why should we just let Google check out the serial numbers of everything they drive past? At least without some further information as to why and how it's going to make things better.

MEREDITH GRIFFITHS: He says Google may not be doing anything illegal, but what it's doing is troubling.

GEORDIE GUY: Google has a lot of information about everybody. This is a company which retains results of what we search for for a year on the Internet. This is an organisation that has access to a lot of people's email addresses and a lot of information about the online community in general.

Every time we see an unexplained addition to that, which is able to be cross-referenced, and perhaps be used to come up with a bigger picture about individuals in Australia, that's when we're concerned and that's why we've written to them asking them to give us some more information.

Privacy concerns as Google's Street View captures WiFi data; Australian Broadcasting Corporation; By Meredith Griffiths; May 13, 2010

The UK Information Commissioner's Office said it was also ignorant of the practice. "At no point did Google make us aware that it would be scanning Wi-Fi too," ICO spokesman Nick Day told New Scientist magazine. --Nick Day, Spokesman, Information Commissioner's Office (UK)

Please explain: why Google wants your Wi-Fi data; *Sydney Morning Herald*; By Louisa Hearn; May 13, 2010

Google Inc.'s Street View mapping service may break EU laws unless it improves the blurring technique it uses to disguise images.

Officials from 30 European countries today adopted a common approach that may force Google, the owner of the most popular Internet search engine, to take further steps to avoid infringing privacy rights. The measure creates a coordinated approach to privacy issues that could arise as Street View is rolled out in Europe, Gerard Lommel, one of the officials, said in an interview today.

"The product as such is not in breach, but more measures have to be taken to improve how images are gathered and used," Lommel, a Luxembourg member of the Article 29 Data Protection Working Party, said in Brussels.
--Gerard Lommel, Luxembourg member, Article 29 Data Protection Working Party

Google Urged to Bring Street View in Line With EU Law (Update1); *Bloomberg*; By Stephanie Bodoni; May 11, 2010

Google's plan to offer Street View photo mapping in Germany, which has bumped up against the country's strict privacy laws, has come in for renewed criticism after regulators learned that the company, a search engine giant, was also archiving the locations of household wireless networks.

"We cannot rely on the good will of Google,' Mr. Steffen said. 'For the filming of people and property, we have to have a law that is legally binding."
-- Till Steffen, Senator for Justice, Hamburg

New Questions Over Google's Street View in Germany; *New York Times*; By Kevin J. O'Brien; April 29, 2010

"The question is what will Google do with this information?' said Johannes Caspar, the head of data protection in Hamburg, the city-state where Google has its German headquarters. 'How are they going to use it?' He added, 'That is what we want to find out."
-- Johannes Caspar, Head of Data Protection, Hamburg

New Questions Over Google's Street View in Germany;
New York Times; By Kevin J. O'Brien; April 29, 2010

"Germany's Federal Commissioner for Data Protection Peter Schaar says he's 'horrified' by the discovery."

"I am appalled... I call upon Google to delete previously unlawfully collected personal data on the wireless network immediately and stop the rides for Street View."
-- Peter Schaar, Federal Commissioner for Data Protection, Germany as quoted by German Broadcaster ARD

Google Street View logs WiFi networks, Mac addresses;
Register; By Andrew Orlowski; April 22, 2010

Industry

Skyhook has been using vehicles driving through neighborhoods to collect Wi-Fi MAC address data for seven years. The company's Wi-Fi location technology is used in many mobile devices, such as the Apple iPhone to help power location-based mobile services.

"We have never collected network traffic... The FBI made it clear in statements five or six years ago that accessing network data without permission is a violation of federal wiretapping laws. We don't need that data, so we have avoided it all together."
--Ted Morgan, Founder and CEO, Skyhook Wireless

Google: Oops, we spied on your Wi-Fi; *CNET*;
By Marguerite Reardon and Tom Krazit; May 14, 2010

Media / Bloggers

Most of the media seems to be buying Google's line that the code was inserted by "mistake", and that it forgot that it was there, and it would never have made use of the 600 gigabytes of data it collected from Wi-Fi networks in more than 30 countries.

Well I'm not buying it.

The episode stinks. If you consider how the company started out, the conversation would have gone something like this: "Information is power. The Internet is full of information. If we can somehow get gold of all that information we'll be sorted."

Ever since the company has been gathering as much information as it can about of as many of us as it can. Why else would an engineer have piped up: "Don't be evil"? He recognised that having a monopoly on information gives you a monopoly on power.

Google like Apple, promotes this image of being a bunch of hippyi-sh geeks out to do good in the world. In fact, it's a company like any other and its prime function is to make money for the people that own it. The more money it makes the more "successful" it is.

Like any other company it makes money out of its users. It doesn't have it users' best interests at heart although it wants to look like it does. It has its own interests at heart. And those aren't the same as those of the user. You're there to be fleeced - of your money or of your data.

"Maintaining people's trust is crucial to everything we do," said Alan Eustace. It wants you to trust it, but it is not trustworthy. It wants to seem trustworthy. It can - and does - make money out of your data.
--Paul Hales, ThinkQ UK

Google's Wi-Fi Snooping is a Disgrace;
ThinkQ.co.uk; By Paul Hales; May 16, 2010

Google's latest privacide admission -- that all of Google's roving StreetView vehicles around the world have been recording some of people's WiFi traffic/web behavior since 2007 -- should prompt privacy officials and the media to ask the simple question: why does Google serially keep having privacy scandals?

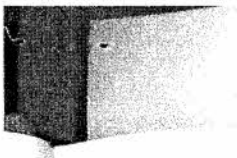
Simply Google will continue to have privacy scandals because Google has deep systemic privacy flaws and vulnerabilities -- by design.
--Scott Cleland, *Precursor Blog*

Exposing Google's Systemic Privacy Vulnerabilities -- Part XXII of Publicacy vs Privacy series;
Precursor Blog; By Scott Cleland; May 15, 2010

"I'm glad the German government browbeat Google over this."

"Before it discovered it had screwed up, Google insisted it was doing nothing wrong. No company ever admits to invading anyone's privacy. It's always "your privacy is important to us" blah blah blah -- and the proper response is always skepticism."
--Harry McCracken, *PC World*

Google: The Accidental Spy; *PCWorld*; By Harry McCracken; May 14, 2010



Not Responsive

(b)(5)

(b)(5)

Not Responsive

Young, Kial

From: Vandecar, Kim

Sent: Friday, November 12, 2010 11:26 AM

To: Delaney, Elizabeth; Winerman, Marc; Cooper, James; Krainsky, Ella; Young, Kial; McKewen, Richard; Kestenbaum, Janis; Zylberglait, Pablo

Cc: Matties, Deborah J.; DeLorme, Christine L.; Olsen, Christopher; Mithal, Maneesha; Rich, Jessica L.; Lowry, Carolyn; Runco, Philip; Bumpus, Jeanne; Harrison, Lisa M.

Subject: Congressional Privacy Issues Update

A few things:

Not Responsive

2). We received a request from the House Committee on Oversight and Government Reform for a non-public briefing on Google Wi-Fi and other privacy issues under review by the Commission. Hopefully we can brief towards the end of next week.

Not Responsive

Let me know if you have any questions. Happy to provide more detail.

Best,
Kim

Young, Kial

From: Kingsland, Gail M.H.

Sent: Friday, October 29, 2010 11:35 AM

To: 1671DL; 1676DL; 1677DL; 1680; 1684DL; 1688DL; 1689DL; 1691DL; Atleson, Michael; Bauer, Benjamin; Benway, Kathleen; Boone, Calvin; Brill, Julie; Brin, Katherine Race; Broder, Betsy; Bruschi, Terri; Bush, Julie; 'Chadwick, Kyle'; Chesnes, Matthew; Claybaugh, Melinda; Cohen, Kristin; Damtoft, Russell W.; Davis, Michael; Delaney, Elizabeth; DeLorme, Christine L.; 'DeRita, Mike'; Dick, Rebecca; Dickie, Judith A.; Eichorn, Mark; Elbein, Bradley; Espaldon, Karen; Fair, Lesley; Ferguson, Stacey; Feuer, Stacy; Field, Kenneth; France, Laureen; Frankle, Janice Podoll; George, Tiffany; Golden, William P.; Golder, James R.; Gray, Jessica D.; Guerard, Collot; Hanks, Daniel; Hann, Carolyn Lee; Henry, Linda; Herman, Douglas; 'Hernacki, Andrew'; Hodapp, Lawrence; Hrdy, Alice; Hunnicutt, James E.; Jablonsky, Diane L.; Jamison, Priscilla; Johnson, Laura A.; Kallay, Dina; Kando-Pineda, Carol A.; Kane, Thomas E.; Kappler, Burke; Kestenbaum, Janis; Koehler, David K.; Koslov, Tara Isa; Kossow, Todd M.; Kueckelhan, Deanya T.; Kumar, Monica; Lamberton, Peter; Leach, Jennifer; Lejeune, Anne D.; Lowry, Carolyn; Lupovitz, Joni; Mahini, Robert; Marcus, Phyllis; Marrone, Deborah; Matties, Deborah J.; Matz, Bethany E.; McKewen, Richard; Miller, Peter B.; Munck, Suzanne; Murphy, Bevin; Petersen, Cara; Prewett, Cecelia; Pyos, Monica M.; Raitt, Susan; Ramirez, Edith; Razi, Sara; Reeves, Amanda; Reynolds, Stephanie; Rich, Jessica L.; Roach, Patrick J.; Rodriguez, Edwin; 'Rosen, David'; Runco, Philip; Sabo, Melanie; Schifferle, Lisa; Seeba, John; Shanoff, Carolyn; Sinasohn, Gideon; Smith, Michele; Stack, Laura; Stahl, Ann M.; Stevenson, Hugh G.; Stitt, Gloria; Taylor, Mark; Torok, David M.; Tran, Trang (Jan); Triggs, Casey; Trilling, James; Tucci, Elizabeth; Turnblacer, Nancy; Van Wazer, Thomas; Vera, Martha; Villaflor, Maria; Vincent, Nicole; Viswanathan, Serena; Wei, Joannie; Westman-Cherry, Melissa; White, Roxanne; Wiese, David M.; Wilshire, Matthew; Winston, Joel; Woods Bell, Deon; Wronka, Kathleen F.; Young, June; Young, Kial; Zullow, Evan; Zylberglait, Pablo; Bloom, Michael; Farrell, Claudia B.; Fortsch, Gregory W.; Greene, Tom; Maxson, William; 'Rodrigues, Eric'; Schwab, Jennifer; Tressler, Colleen P.; VanDruff, Laura

Subject: Clips Alert

Hello

Today's edition of Clips is now posted and available at https://ftcintranet.ftc.gov/clips/pdfs/Clips 102910.pdf

Gail

Gail M. Kingsland
Office of Public Affairs
Federal Trade Commission
202-326-2178 desk
301-917-7205 cell

Not Responsive

Not Responsive

TWEETS

Trends: The Google topic continues to generate a lot of attention on Twitter as multiple bloggers have now picked up the story (see yesterday's Tweets with links to major news articles). Many are speculating the White House's involvement with "our decision to drop the case." Also – there's also some focus on the negative reaction by privacy advocates.
Google: @hilliconvalley (2,800 followers) Blumenthal pans FTC's reasons for dropping Google probe http://bit.ly/aU1ZTM; (1,476,650+ follower) FTC Ends Street View Feud With Google After Winning Privacy Concessions http://tcrn.ch/9ufEsL; (22,000+ followers) [Top Story] Feds Let Google Off With Warning for Wi-Fi–Sniffing Cars: The FTC decided not to fine Google for eaves... http://bit.ly/cdbSFw; (7,200+ followers) Privacy Advocates Blast FTC's Inaction Over Street View Spying http://bit.ly/d5yOoH; (47,000 followers) Shocker: FTC Drops Investigation Of Google After Company Executives Hold Obama Fundraiser: There's been no small ... http://bit.ly/bVa97Y; (100+ followers) Weird. Google execs raise $1.8M at a fundraiser for Obama and less than a week later the FTC mysteriously closes its Google investigation.
(1,200+ followers) FTC lets Google off the hook, Europeans still fuming http://goo.gl/fb/h1ThH #digg #Popular
TV Labels: @consumerreports (111,500 followers) TVs to get EnergyGuide labels, just like refrigerators http://bit.ly/aCFBTp; (2,100+ followers) #sustainability How efficient is that TV? - The Federal Trade Commission voted to have all televisions produced afte... http://ow.ly/19GTLZ; (850+ followers) Energy Labeling To Be Required On TVs like it is on washing machines http://bit.ly/a04riD #green #ftc #eco #energyefficiency
Miscellaneous: (650+ followers) Where are our new generic drugs? FTC Commish says Pay-for-Delay is "one of the most corrupt practices in health care" http://ht.ly/30ZpH
(2,250 followers) One-A-Day Vitamin Lawsuits Settled for $3.3M: ... civil fines to the Federal Trade Commission and the Department o... http://bit.ly/arLvFd; (650 followers) Make money at home business opportunities to be policed by FTC: Now make money at home business opportunities are ... http://bit.ly/dbdkBP; (400+ followers) New ID theft guide for those helping ID theft victims, excellent for attorneys & advocates. Published by FTC. #privacy http://bit.ly/9lkEGf

Young, Kial

From: Kingsland, Gail M.H.

Sent: Thursday, October 28, 2010 12:28 PM

To: 1671DL; 1676DL; 1677DL; 1680; 1684DL; 1688DL; 1689DL; 1691DL; Atleson, Michael; Bauer, Benjamin; Benway, Kathleen; Boone, Calvin; Brill, Julie; Brin, Katherine Race; Broder, Betsy; Bruschi, Terri; Bush, Julie; 'Chadwick, Kyle'; Chesnes, Matthew; Claybaugh, Melinda; Cohen, Kristin; Damtoft, Russell W.; Davis, Michael; Delaney, Elizabeth; DeLorme, Christine L.; 'DeRita, Mike'; Dick, Rebecca; Dickie, Judith A.; Eichorn, Mark; Elbein, Bradley; Espaldon, Karen; Fair, Lesley; Ferguson, Stacey; Feuer, Stacy; Field, Kenneth; France, Laureen; Frankle, Janice Podoll; George, Tiffany; Golden, William P.; Golder, James R.; Gray, Jessica D.; Guerard, Collot; Hanks, Daniel; Hann, Carolyn Lee; Henry, Linda; Herman, Douglas; 'Hernacki, Andrew'; Hodapp, Lawrence; Hrdy, Alice; Hunnicutt, James E.; Jablonsky, Diane L.; Jamison, Priscilla; Johnson, Laura A.; Kallay, Dina; Kando-Pineda, Carol A.; Kane, Thomas E.; Kappler, Burke; Kestenbaum, Janis; Koehler, David K.; Koslov, Tara Isa; Kossow, Todd M.; Kueckelhan, Deanya T.; Kumar, Monica; Lamberton, Peter; Leach, Jennifer; Lejeune, Anne D.; Lowry, Carolyn; Lupovitz, Joni; Mahini, Robert; Marcus, Phyllis; Marrone, Deborah; Matties, Deborah J.; Matz, Bethany E.; McKewen, Richard; Miller, Peter B.; Munck, Suzanne; Murphy, Bevin; Petersen, Cara; Prewett, Cecelia; Pyos, Monica M.; Raitt, Susan; Ramirez, Edith; Razi, Sara; Reeves, Amanda; Reynolds, Stephanie; Rich, Jessica L.; Roach, Patrick J.; Rodriguez, Edwin; 'Rosen, David'; Runco, Philip; Sabo, Melanie; Schifferle, Lisa; Seeba, John; Shanoff, Carolyn; Sinasohn, Gideon; Smith, Michele; Stack, Laura; Stahl, Ann M.; Stevenson, Hugh G.; Stitt, Gloria; Taylor, Mark; Torok, David M.; Tran, Trang (Jan); Triggs, Casey; Trilling, James; Tucci, Elizabeth; Turnblacer, Nancy; Van Wazer, Thomas; Vera, Martha; Villaflor, Maria; Vincent, Nicole; Viswanathan, Serena; Wei, Joannie; Westman-Cherry, Melissa; White, Roxanne; Wiese, David M.; Wilshire, Matthew; Winston, Joel; Woods Bell, Deon; Wronka, Kathleen F.; Young, June; Young, Kial; Zullow, Evan; Zylberglait, Pablo; Bloom, Michael; Farrell, Claudia B.; Fortsch, Gregory W.; Greene, Tom; Maxson, William; 'Rodrigues, Eric'; Schwab, Jennifer; Tressler, Colleen P.; VanDruff, Laura

Subject: Clips Alert

Hello

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Gail

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Not Responsive

Not Responsive

TWEETS

Trends: The FTC was mentioned in a couple thousand Tweets in the past 24 hours. The majority of Tweets referenced the staff closing letter about Google as it was picked up by multiple news agencies and influential technology bloggers. The new TV labels also generated a significant number of Tweets.

Google: @nytimesbits (27,300 followers) F.T.C. Drops Google Inquiry on Street View Data http://nyti.ms/9D04Me; @CNBCbrk (8,400+ followers) FTC Ends Google Street View Inquiry #google #ftc #breaking ; @CNBC (169,700+ followers) FTC Ends Google Street View Inquiry #google #ftc #breaking; (53,000+ followers) FTC, unlike Europeans, clears Google Street View data nabbing. http://nyti.ms/c8UtPR;@pcworld (26,000 followers) FTC Backs Off Google in Privacy Breach Inquiry http://bit.ly/9wNfNP; @wsjbusiness (64,160+ followers) FTC Closes Inquiry Into Google Street View http://on.wsj.com/9NE0a8; @LATimesTech (14,750+ followers) FTC halts investigation of Google's Street View http://lat.ms/cpXWtC; @LATimesBiz (71,250+ followers) FTC closes investigation of Google over data collection http://lat.ms/dlLqzB; @Drudge_Report (129,400+ followers) Trade commission ends GOOGLE probe; Data breach investigation dropped by FTC... http://drudge.tw/aEB4Y5; @myFOXla (14,300+ followers) Google Street View Probe Closed: The U.S. Federal Trade Commission (FTC) has closed its inquiry into Google's Stre... http://bit.ly/cO5OYK; (1,049,650 followers) FTC Ends Inquiry Into Google for Data Collection http://rww.to/bcM63m; (178,750+ followers) FTC accepts Google's privacy apology, lets Street View off the hook http://bit.ly/df8YyH
(32,500+ followers) The FTC Forgives Google's WiFi Sniffing /The Not-So Private Parts http://j.mp/cuKDOy http://techme.me/ADVY; (1,000 followers) FTC Wrong to End Google Probe; Americans Entitled to Full Account of Abuses: SANTA MONICA, Calif., Oct. 27 /PRNews... http://bit.ly/a231Us; (4,900 followers) Is anyone else creeped out that the FTC suddenly dropped the Google probe? Strange. #Google execs have bn meeting w/ the WhiteHouse. (650+ followers) #FTC Forgives ##Google_Street_View #WiFi Privacy Gaffe: [eweek.com] Satisfied with Google's new #privacy_policies,... http://dlvr.it/7fzNV

Not Responsive

TV HITS

Not Responsive

Google	CNBC World - U.K. National Asia Squawk Box; WNET-TV (PBS) New York, NY

Not Responsive

Google	FOX KHON-HON Honolulu, HI (Also: Ft. Meyers, FL; Tulsa, OK; Oklahoma City, OK; Boston, MA; South Bend, IN; Nashville, TN;

Greenville, S.C.; Austin, TX; Albuquerque, N.M.; Minneapolis, MN; Chicago, IL;

Not Responsive

Google WTOP-DC (Radio) Washington, D.C.

Not Responsive

Google KUSA-DEN (NBC) Denver, CO

Not Responsive

Google CNN Europe

Young, Kial

From: Prewett, Cecelia

Sent: Thursday, October 28, 2010 9:30 AM

To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Atleson, Michael; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Shanoff, Carolyn; Tabor, April; Torok, David M.; Winston, Joel; Bumpus, Jeanne; Groman, Marc; Harrington, Eileen; Lupovitz, Joni; Tom, Willard K.; Tritell, Randolph W.; Vladeck, David

Subject: Early Clips 10.28.10

Not Responsive

Not Responsive

WaPo: Satisfied with Google's promise to restrain Street View, FTC drops privacy-breach probe

By Cecilia Kang
Washington Post Staff Writer
Wednesday, October 27, 2010; 9:20 PM

The federal government has ended an inquiry into a privacy breach involving Google's Street View service, satisfied with the company's pledge to stop gathering e-mail, passwords and other information from residential WiFi networks as it rolls through neighborhoods.

Wednesday's decision by the Federal Trade Commission is a sharp contrast with the reaction of regulators in Europe. The United Kingdom has launched a new investigation into Google's collection of unencrypted WiFi data, exposing the company to potential fines. Germany told Google to mark its Street View cars that take pictures of neighborhoods and homes. The Czech Republic banned Google from expanding its mapping software program.

The differences highlight an increasing gap between regulators in the United States, where the freewheeling Internet culture has birthed many of the social networking sites and search engines used worldwide, and governments in Europe and Canada, which tend to be much more aggressive about privacy.

"Part of it is cultural, and part of it is that the U.S. and Europe have radically different privacy regimes," said Chris Calabrese, legislative counsel for the ACLU. "The European model is extensive data protection in private information, and the U.S. model is piecemeal."

The result is a rising number of trans-Atlantic conflicts. The Obama administration has been criticized for its efforts to allow law enforcement to surveil Internet networks, for instance. In addition, the European Union is pushing back against U.S. demands to share data about U.S.-bound air passengers.

Many European nations have laws that sanction or fine companies for learning too much about Web users and sharing that information with other companies. Regulators there tend to focus on consumers' rights to their own information on the Internet. In the United States, companies argue that consumers lose their rights after information is shared with a third party.

U.S. regulators are working on suggestions for how far companies can go with information they collect, store and share about Internet users. Those suggestions, to be released in a report by the FTC in the coming weeks, could result in a legislative road map for Congress. But because of the agency's limited rule-making power, the FTC's report could have limited impact, privacy groups fear.

The advocates also argue that U.S. companies have a strong voice in debates at the FTC and on Capitol Hill over privacy legislation. As a result, critics say, the U.S. government has been more sensitive to how privacy regulation or laws could affect the businesses of Web sites like Facebook and Amazon and media sites, such as The Washington Post and CNN.com.

"We are trying to develop a framework with input of many stakeholders that would be useful as we all go forward on privacy," said Jessica Rich, deputy director of the FTC's Consumer Protection Bureau.

In a letter to Google on Wednesday, the FTC said privacy concerns from its Street View cars' data collection were allayed when the search giant announced that it would beef up privacy training for employees and not use any collected data for any Google products or services.

"This assurance is critical to mitigate the potential harm to consumers from the collection of payload data," David Vladeck, head of the FTC's Consumer Protection Bureau, wrote in closing the review.

While taking photos of cars and homes, Google's Street View cars were also collecting information about the placement of WiFi networks. After German authorities investigated the practice, Google said its cars had accidentally also collected Internet user data - or payload data - while passing homes.

"We are deeply disappointed that FTC dropped the ball on Google," said Jeffrey Chester, executive director of the Center for Digital Democracy. "It took other regulators in Germany and Canada to expose the extent of the privacy violation. And the U.S. is saying it will continue to be absent on this issue."

October 27, 2010

NYT: A Reassured F.T.C. Ends Google Street View Inquiry

By CLAIRE CAIN MILLER

MOUNTAIN VIEW, Calif. — The Federal Trade Commission announced Wednesday that it had ended its investigation of Google's collection of Internet users' personal communications by the company's Street View cars.

In a letter, David C. Vladeck, the director of the bureau of consumer protection, said that the F.T.C. was satisfied with the steps Google had taken to prevent a recurrence of the problem, including naming a director of privacy and beefing up privacy training for employees. The company assured the commission that it had not used the data and promised to delete it as soon as possible.

Last Friday, Google said that its cars taking pictures of buildings along city streets, which had also checked for Wi-Fi hotspots, had collected even more information about Internet users than it had first thought last May. That information included passwords, e-mail messages and Web addresses carried on unencrypted Wi-Fi networks, Google said. Google stopped driving Street View cars in May and restarted in the summer, but without the collecting Wi-Fi data.

Last week, Google also announced that it had appointed Alma Whitten as director of privacy for engineering and product management. The company will require engineers and other employees to complete training on the appropriate collection, use and handling of data and require engineering project leaders to maintain privacy documents for the products they work on.

"We are mortified by what happened, but confident that these changes to our processes and structure will significantly improve our internal privacy and security practices for the benefit of all our users," Alan Eustace, senior vice president of engineering and research, wrote in a company blog post.

Consumer Watchdog, an advocacy group, called the F.T.C.'s decision "premature and wrong."

"Once again, Google, with its myriad of government connections, gets a free pass," John M. Simpson, director of the group's Inside Google Project, said in a statement.

The breach was first made public in May, when German data protection authorities discovered that Google's Street View cars, which take pictures for Google Maps, were collecting Internet users' information, known as payload data, over unsecured wireless networks.

Google had been collecting the information in about 30 countries, and faces several investigations, including in Germany, France and Italy. In the United States, Google faces multiple class-action lawsuits over the privacy invasion. In a statement, Google said that it welcomed the news from the F.T.C. and reiterated that "we did not want and have never used the payload data in any of our products or services."

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
desk 202.326.3220 cell 202.758.7598
Web I Facebook I YouTube

Young, Kial

From: Katz, Mitchell J.

Sent: Wednesday, October 20, 2010 2:33 PM

To: 1671DL; 1676DL; 1677DL; 1680; 1684DL; 1688DL; 1689DL; 1691DL; Atleson, Michael; Bauer, Benjamin; Benway, Kathleen; Boone, Calvin; Brill, Julie; Brin, Katherine Race; Broder, Betsy; Bruschi, Terri; Bush, Julie; 'Chadwick, Kyle'; Chesnes, Matthew; Claybaugh, Melinda; Cohen, Kristin; Damtoft, Russell W.; Davis, Michael; Delaney, Elizabeth; DeLorme, Christine L.; 'DeRita, Mike'; Dick, Rebecca; Dickie, Judith A.; Eichorn, Mark; Elbein, Bradley; Espaldon, Karen; Fair, Lesley; Ferguson, Stacey; Feuer, Stacy; Field, Kenneth; France, Laureen; Frankle, Janice Podoll; George, Tiffany; Golden, William P.; Golder, James R.; Gray, Jessica D.; Guerard, Collot; Hanks, Daniel; Hann, Carolyn Lee; Henry, Linda; Herman, Douglas; 'Hernacki, Andrew'; Hodapp, Lawrence; Hrdy, Alice; Hunnicutt, James E.; Jablonsky, Diane L.; Jamison, Priscilla; Johnson, Laura A.; Kallay, Dina; Kando-Pineda, Carol A.; Kane, Thomas E.; Kappler, Burke; Kestenbaum, Janis; Koehler, David K.; Koslov, Tara Isa; Kossow, Todd M.; Kueckelhan, Deanya T.; Kumar, Monica; Lamberton, Peter; Leach, Jennifer; Lejeune, Anne D.; Lowry, Carolyn; Lupovitz, Joni; Mahini, Robert; Marcus, Phyllis; Marrone, Deborah; Matties, Deborah J.; Matz, Bethany E.; McKewen, Richard; Miller, Peter B.; Munck, Suzanne; Murphy, Bevin; Petersen, Cara; Prewett, Cecelia; Pyos, Monica M.; Raitt, Susan; Ramirez, Edith; Razi, Sara; Reeves, Amanda; Reynolds, Stephanie; Rich, Jessica L.; Roach, Patrick J.; Rodriguez, Edwin; 'Rosen, David'; Runco, Philip; Sabo, Melanie; Schifferle, Lisa; Seeba, John; Shanoff, Carolyn; Sinasohn, Gideon; Smith, Michele; Stack, Laura; Stahl, Ann M.; Stevenson, Hugh G.; Stitt, Gloria; Taylor, Mark; Torok, David M.; Tran, Trang (Jan); Triggs, Casey; Trilling, James; Tucci, Elizabeth; Turnblacer, Nancy; Van Wazer, Thomas; Vera, Martha; Villaflor, Maria; Vincent, Nicole; Viswanathan, Serena; Wei, Joannie; Westman-Cherry, Melissa; White, Roxanne; Wiese, David M.; Wilshire, Matthew; Winston, Joel; Woods Bell, Deon; Wronka, Kathleen F.; Young, June; Young, Kial; Zullow, Evan; Zylberglait, Pablo

Subject: Cover Sheet - 10-20

Cover Sheet with active links

Federal Trade Commission Clips

Office of Public Affairs
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Federal Trade Commission in the News
October 20, 2010

Not Responsive

Not Responsive

Timeline: Google's Not So Easy Street (Privacy Issues). Reuters 10/20

Not Responsive

Young, Kial

From: Gebler, Leah

Sent: Thursday, July 29, 2010 8:43 AM

To: Prewett, Cecelia; 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel

Subject: Early Clips 7.29.10

Not Responsive

Not Responsive

Google Sued Over Claims Data Collection for Street View Invades Privacy

By Joel Rosenblatt - Jul 28, 2010

Google Inc. was sued over claims its collection of data via Wi-Fi networks for the company's Street View program violates federal wiretapping and California privacy laws.

The lawsuit was filed yesterday in San Jose, California, on behalf of Rick Benitti, who argues that Google intercepted business and personal information from his home wireless network when he lived in San Francisco from 2005 to this year.

Google said in May it mistakenly gathered information from open wireless networks while it was capturing images of roadways and houses for its Street View service, a product that lets users view photographs of an area online.

The complaint, which seeks class-action, or group, status, follows an announcement by Connecticut Attorney General Richard Blumenthal last month that 37 states are investigating Google's

gathering of data, including e-mail and passwords. Officials in Germany, Spain and other European countries are also investigating Google's data collection from Wi-Fi networks.

The U.S. Federal Trade Commission said in May that it is reviewing Google's data gathering. Also in May, U.S. District Judge Michael Mosman in Oregon ordered the company to turn over similar data collected in that state, including any e-mails, files or digital phone records, according to court documents.

'Access to Data'

In the Oregon case, Google said in a June filing that it faces eight similar cases over its data-gathering practices, including suits in Illinois, Massachusetts, Pennsylvania and Washington, D.C. Google asked the court in Oregon to move the case to Northern California, where it hopes to consolidate all similar U.S. cases.

"Hundreds if not thousands of Google employees throughout the United States have access to data maintained on Google's servers, which includes intercepted electronic communications of plaintiff and others," according to the complaint filed yesterday in San Jose.

A Google representative didn't immediately return a phone call and e-mail message seeking comment.

Google Street View uses images captured by specially equipped vehicles to provide views of streets in almost a dozen countries around the world and can be found within Google Maps.

The case is Benitti v. Google, 10-3297, U.S. District Court, Northern District of California (San Jose). The Oregon case is Vicki Van Valin v. Google, 10-00557, U.S. District Court, District of Oregon (Portland).

To contact the reporter on this story: Joel Rosenblatt in San Francisco at jrosenblatt@bloomberg.net.

Best,
Leah Gebler
Assistant, Office of Public Affairs
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
202-326-3580

Young, Kial

From: Prewett, Cecelia

Sent: Tuesday, July 27, 2010 8:44 AM

To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel

Subject: Early Clips 7.27.10

AP: FTC bans 8 marketers from selling mortgage relief
WaPo Tech Blog: Senate preps online privacy legislation as advertisers promise self regulation

Not Responsive

Not Responsive

WaPo Tech Blog: Senate preps online privacy legislation as advertisers promise self regulation

A Senate Commerce, Science and Transportation Committee hearing on online privacy Tuesday will focus on technologies used to collect and use consumer information and could help lay the groundwork for legislation governing those practices.

The hearing, set for 2:30 p.m., comes amid growing calls for the Senate to act in the wake of several high-profile privacy mishaps, analysts say. Google will address its Wi-Fi networks breach, saying the incidents are now in the hands of its legal team. Hoping to stave off tough new rules, Web sites are rushing to provide assurances to regulators and lawmakers they will behave fairly and in a transparent manner.

According to a memo prepared by Republican committee staff, the hearing is expected to focus on technologies that enable Web sites, such as Facebook and Google, and device and software makers, such as Apple, to sell ads based on information collected from their customers' profiles.

The chances of Congress passing an online privacy bill this year are slim, analysts say. Still, advertisers and Web site publishers are working together to show they can regulate their own practices by being more upfront about how they collect and consumers' information.

"The industry's movement toward greater transparency is necessary because we believe a political consensus has formed in Washington that consumers need greater awareness of behavioral targeting and the ability to easily opt-out of such tracking," said Paul Gallant, an analyst at Concept Capital.

Senators John Kerry (D-Mass.) and Mark Pryor (D-Ark.) have been contemplating legislation, according to the staff memo. On the other side of Capitol Hill, momentum for online privacy legislation continues to build. Last week, Rep. Bobby Rush (D-Ill.) introduced an online privacy bill complementing legislation previously introduced by Rep. Rick Boucher (D-Va.). Under Boucher's bill online advertisers

wouldn't be allowed to track sensitive information – such as their health and financial records – without the express permission of users. Rush's bill would also allow the Federal Trade Commission to create its own online privacy rules and require Web sites to explain clearly how they handle users' personal information.

A memo prepared by Republican staff outlined some of the major issues up for consideration by the Senate committee – including behavioral advertising, location-based services, and deep-packet inspection of data on broadband networks. The memo also highlighted the technologies used to gather and use consumer data.

As such, the panel has invited technologists from Apple, Google, and Facebook to talk about their practices. Complaints that those companies had mishandled user information in the past (Google's Wi-Fi snooping, Facebook's partnerships with Microsoft and Yelp that shared members' information when volunteered) were also outlined in the memo.

AT&T, which will also be represented at the hearing, wasn't a focus of the memo. But earlier this year, a security breach exposed the e-mail addresses for thousands of users of Apple's iPad, for which AT&T is the sole U.S. carrier. AT&T, the only Internet service provider represented, could have access to a trove of information by its subscribers through technology that allows ISPs to inspect data packets that flow through their networks.

Jeffrey Chester, executive director of the Center for Digital Democracy, has circulated a list of ideas for lawmakers to consider regarding consumer privacy on the Internet. He said Web sites should allow users to see what information is being collected about them and be able to change erroneous information. He also suggested a Do Not Track Registry, modeled after the Do Not Call Registry, for consumers who don't want to have information collected on them about their Internet activity and profiles.

"Consumers have the right to access their credit reports and medical records, but they are neither aware of -- nor do they have access to -- the detailed profiles that marketers have compiled from both online and offline sources," Chester said.

By Cecilia Kang | July 27, 2010; 8:00 AM ET

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Director, Office of Public Affairs
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Young, Kial

From: Prewett, Cecelia

Sent: Wednesday, November 03, 2010 9:35 AM

To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Atleson, Michael; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Shanoff, Carolyn; Tabor, April; Torok, David M.; Winston, Joel; Bumpus, Jeanne; Groman, Marc; Harrington, Eileen; Lupovitz, Joni; Tom, Willard K.; Tritell, Randolph W.; Vladeck, David

Subject: Early Clips 11.3.10

WaPo: White House Internet privacy committee puts out charter
Bloomberg: Google StreetView Sweeps Broke U.K. Data Law, Privacy Regulator Says

Not Responsive

counterfeiting.

3. The group will be the first stop for any government **statements** on privacy.

By Cecilia Kang | November 2, 2010; 5:22 PM ET

Google StreetView Sweeps Broke U.K. Data Law, Privacy Regulator Says

By Erik Larson - Nov 3, 2010

Google Inc. violated Britain's data- protection law when its Street View mapping unit inadvertently gathered personal e-mails and passwords from unsecured wireless networks, the U.K.'s privacy regulator said today.

Google disclosed the security breach in May and said in an Oct. 22 blog post that while the data it collected was mostly fragmentary it included entire e-mails and URLs. The error was a "significant breach" of the U.K.'s Data Protection Act, the Information Commissioner's Office said today in a statement.

"Google U.K. will be subject to an audit and must sign an undertaking to ensure data protection breaches do not occur again or they will face enforcement action," Information Commissioner Christopher Graham said in the statement. The watchdog asked Google to make changes to its policies to avoid an enforcement action.

European governments including Germany, France, Spain and Italy began probes after Mountain View, California-based Google said that its Street View cars had inadvertently recorded information from Wi-Fi networks while photographing roadsides in residential neighborhoods. The U.S. Federal Trade Commission last month ended its probe after Google said it would improve privacy safeguards.

Google spokeswoman Laura Scott didn't immediately return a call seeking comment.

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
desk 202.326.3220 cell 202.758.7598
Web I Facebook I YouTube

Young, Kial

From: Dickie, Judith A.
Sent: Wednesday, October 27, 2010 9:21 AM
To: Young, Kial
Subject: RE: For 9 a.m. Today, Wednesday, October 27th: Staff Closing Letter in Google

It was sent at 9:00am. --Judy

From: Young, Kial
Sent: Wednesday, October 27, 2010 8:18 AM
To: Brill, Julie
Cc: McKewen, Richard; Dickie, Judith A.
Subject: Fw: For 9 a.m. Today, Wednesday, October 27th: Staff Closing Letter in Google

Julie, FYI google letter will be public in about 45 minutes.
Judy, please fax it to Julie at 9am marked "urgent - please delivery immediately" as we discussed last night. Thank you!

Duplicate

Young, Kial

From: Brill, Julie
Sent: Tuesday, October 26, 2010 4:53 PM
To: Young, Kial
Subject: Re: Google wi-fi

Just email ot now and tomorrow fax it and mark urgent - deliver right away. Thanks.

From: Young, Kial
To: Brill, Julie
Sent: Tue Oct 26 16:51:13 2010
Subject: RE: Google wi-fi

Great. Do you think it's safe/secure to fax a clean copy of the as-yet-unpublic letter? Or should I just paste it into an email for now and fax it tomorrow?

From: Brill, Julie
Sent: Tuesday, October 26, 2010 4:47 PM
To: Young, Kial
Subject: Re: Google wi-fi

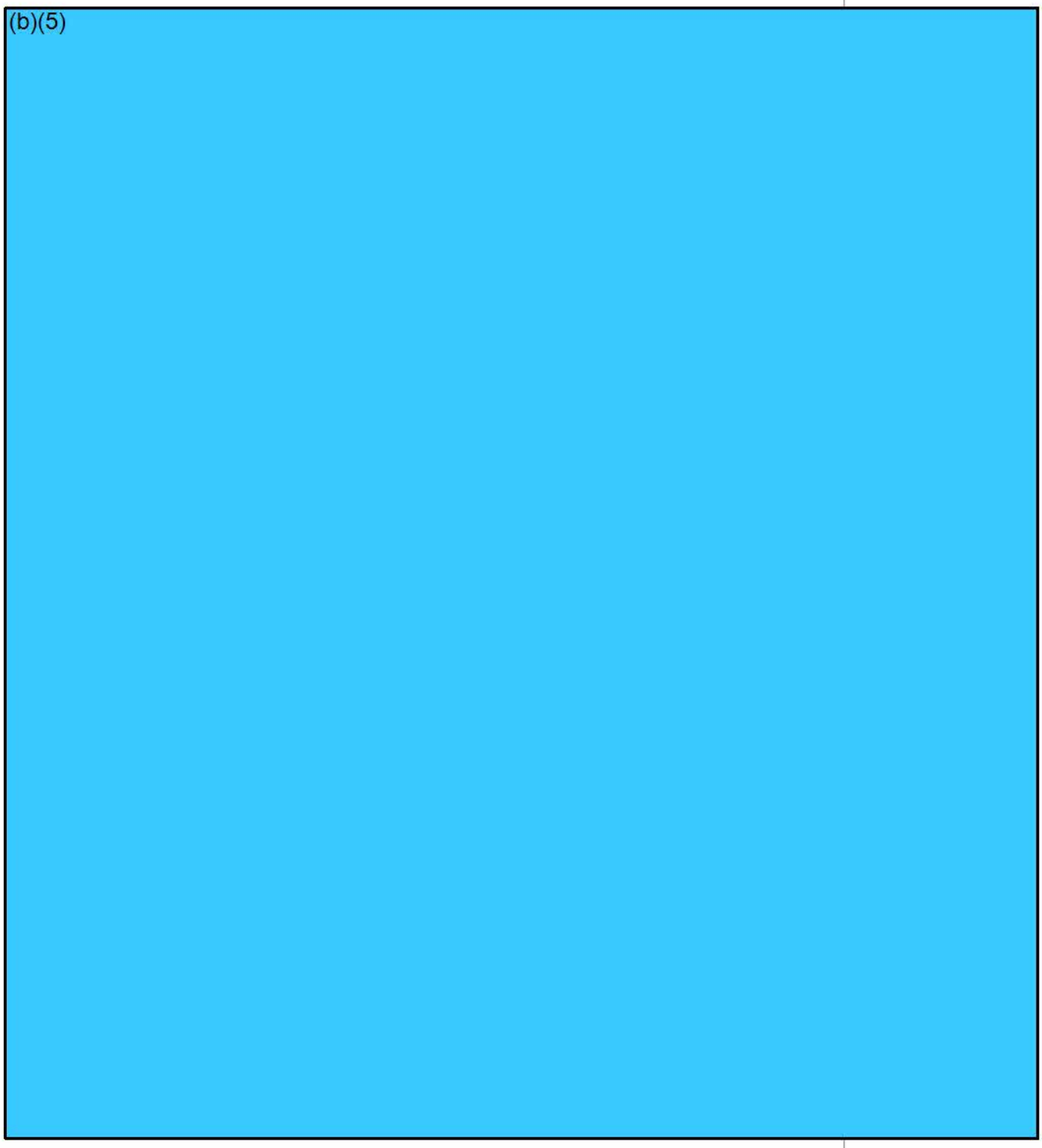
Yes, it's fine. Thanks much.

From: Young, Kial
To: Brill, Julie
Sent: Tue Oct 26 16:43:46 2010
Subject: RE: Google wi-fi

Perfect timing -- I was just about to send you the redline (see below), it's going to be released tomorrow. Your change was incorporated and the other revisions look fine to me. Please let me know ASAP if you have any issues with this draft? Thanks! -- kial

(b)(5)

(b)(5)



From: Brill, Julie
Sent: Tuesday, October 26, 2010 4:42 PM
To: Young, Kial
Subject: Re: Google wi-fi

Has this been made public yet? And lease fax final lettEr to my hotel aSap. Thanks!

From: Young, Kial
To: Brill, Julie
Sent: Mon Oct 25 17:09:51 2010

Subject: Re: Google wi-fi

Will do - thanks for taking such a quick look!

Duplicate

Young, Kial

To: Brill, Julie
Cc: McKewen, Richard
Subject: RE: Google wi-fi

Hi, Julie. Just closing the loop on the letter

Duplicate

Young, Kial

From: McKewen, Richard
Sent: Monday, May 24, 2010 2:57 PM
To: Brill, Julie
Cc: Swan, Robert Michael; Young, Kial
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi
Attachments: Letter - Request for Non-Public Briefing - Google - Signed - 5-24-10.pdf; Markey Barton Letter 2010.05.19.PDF

FYI

From: Vandecar, Kim
Sent: Monday, May 24, 2010 1:12 PM
To: Kestenbaum, Janis; Matties, Deborah J.; DeLorme, Christine L.; McKewen, Richard; Delaney, Elizabeth; Winerman, Marc; Cooper, James
Cc: Harrison, Lisa M.; Kaufman, Daniel
Subject: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

We wanted to let you know that Chairman Markey is requesting a non-public briefing on the Google Wi-Fi investigation. Staff from the hill is asking for the briefing on Tuesday June 1st. Please let me know if you have any questions. The bureau and general counsels office will send a formal memo and letter in the next day or two.

Kim

Young, Kial

From: Prewett, Cecelia

Sent: Wednesday, November 03, 2010 9:35 AM

To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Atleson, Michael; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Shanoff, Carolyn; Tabor, April; Torok, David M.; Winston, Joel; Bumpus, Jeanne; Groman, Marc; Harrington, Eileen; Lupovitz, Joni; Tom, Willard K.; Tritell, Randolph W.; Vladeck, David

Subject: Early Clips 11.3.10

WaPo: White House Internet privacy committee puts out charter
Bloomberg: Google StreetView Sweeps Broke U.K. Data Law, Privacy Regulator Says

White House Internet privacy committee puts out charter

The **White House**'s inter-agency committee on Internet privacy will come up with a white paper and policy and legislative guidelines in its two-year term, according to a charter statement (pdf).

White House Chief Technology Officer Aneesh Chopra, Chief Information Officer Vivek Kundra and **Senior Adviser on Technology Philip Wiser** said the group would draw members from more than a dozen agencies to look at privacy issues that stem from electronic health records, smart electricity grids and cloud computing.

The group, formed last month, comes amid increasing concerns over privacy flaps by U.S. companies such as Google and Facebook on how those firms handle user data. Google has faced increased scrutiny by European regulators for its Street View mapping service and its accidental data breach of residential Wi-Fi networks from cars that roam streets around the world for the mapping application.

But privacy advocates say that without a mission to create rules or laws, the group could favor corporations who resist government attempts to limit their ability to collect, store and share user data with advertisers.

Following are the group's three main tasks:

1. To produce a **white paper** from policy work taking place at the Commerce Department and Federal Trade Commission. The FTC is expected to release a report within weeks with policy recommendations on how to protect Internet users from harmful business practices.

The charter is sensitive to business needs, with White House officials saying the group will "examine the role of governments in ensuring that national regimes do not unduly impede the innovation and efficiency gains derived from leveraging a globalized network."

2. The group will come up with "**general principles**" for a domestic and global Internet privacy framework. That framework will reflect the work of White House efforts on cybersecurity and anti-

counterfeiting.

3. The group will be the first stop for any government **statements** on privacy.

By Cecilia Kang | November 2, 2010; 5:22 PM ET

Google StreetView Sweeps Broke U.K. Data Law, Privacy Regulator Says

By Erik Larson - Nov 3, 2010

Google Inc. violated Britain's data- protection law when its Street View mapping unit inadvertently gathered personal e-mails and passwords from unsecured wireless networks, the U.K.'s privacy regulator said today.

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"Google U.K. will be subject to an audit and must sign an undertaking to ensure data protection breaches do not occur again or they will face enforcement action," Information Commissioner Christopher Graham said in the statement. The watchdog asked Google to make changes to its policies to avoid an enforcement action.

European governments including Germany, France, Spain and Italy began probes after Mountain View, California-based Google said that its Street View cars had inadvertently recorded information from Wi-Fi networks while photographing roadsides in residential neighborhoods. The U.S. Federal Trade Commission last month ended its probe after Google said it would improve privacy safeguards.

Google spokeswoman Laura Scott didn't immediately return a call seeking comment.

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
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Kestenbaum, Janis

From: Ramirez, Edith
Sent: Monday, October 25, 2010 7:34 PM
To: Kestenbaum, Janis
Subject: RE: Google wi-fi

Hopefully we won't have to wait until the final report next year.

From: Kestenbaum, Janis
Sent: Monday, October 25, 2010 7:28 PM
To: Ramirez, Edith
Subject: Re: Google wi-fi

(b)(5)

From: Ramirez, Edith
To: Kestenbaum, Janis
Sent: Mon Oct 25 18:59:47 2010
Subject: RE: Google wi-fi

(b)(5)

From: Kestenbaum, Janis
Sent: Monday, October 25, 2010 5:09 PM
To: Ramirez, Edith
Subject: FW: Google wi-fi

Attached is a draft letter from Vladeck to Google re end of our inquiry into StreetView. There's a request for comments by tomorrow 2 pm. I think the letter looks fine (b)(5)

(b)(5)

Duplicate

Kestenbaum, Janis

From: Kestenbaum, Janis
Sent: Monday, October 25, 2010 8:17 PM
To: Ramirez, Edith
Subject: RE: Google wi-fi

Sorry my email got muddled – no bold.

From: Ramirez, Edith
Sent: Monday, October 25, 2010 8:16 PM
To: Kestenbaum, Janis
Subject: Re: Google wi-fi

(b)(5) Not sure what you bold, but I think it's fine without any bold.

From: Kestenbaum, Janis
To: Ramirez, Edith
Sent: Mon Oct 25 19:48:50 2010
Subject: RE: Google wi-fi

(b)(5)

Duplicate

Kestenbaum, Janis

From: Ramirez, Edith
Sent: Monday, October 25, 2010 9:17 PM
To: Kestenbaum, Janis
Subject: Re: Google wi-fi

Will review in the morning. Thanks.

From: Kestenbaum, Janis
To: Ramirez, Edith
Sent: Mon Oct 25 20:15:59 2010
Subject: RE: Google wi-fi

(b)(5)
Here's a redline with suggested edits.

Duplicate

Kestenbaum, Janis

From: Ramirez, Edith
Sent: Tuesday, October 26, 2010 11:27 AM
To: Kestenbaum, Janis
Subject: RE: Google wi-fi

(b)(5)

Duplicate

Kestenbaum, Janis

From: Kestenbaum, Janis
Sent: Tuesday, October 26, 2010 6:00 PM
To: Ramirez, Edith
Subject: FW: Google WiFi letter

Attachments: wi fi letter 10.26.10.wpd; redline..wpd

wi fi letter 26.10.wpd (17

redline..wpd (181 KB)

Final letter from Vladeck to Google attached. They took one of of our two suggestions.

-----Original Message-----
From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 4:31 PM
To: Kestenbaum, Janis; Delaney, Elizabeth; Young, Kial; McKewen, Richard; Krainsky, Ella; Winerman, Marc; Cooper, James; Hollman, Hugh
Cc: Mithal, Maneesha; Lupovitz, Joni; DeLorme, Christine L.
Subject: Google WiFi letter

Fyi, here is the final version to be made public tomorrow morning. Thanks to everyone who provided helpful suggestions.

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

Office of the Secretary

May 21, 2010

MEMORANDUM

TO: Willard K. Tom
General Counsel

Jeanne Bumpus
Director, Office of Congressional Relations

FROM: Donald S. Clark and Susan Taylor

SUBJECT: **Status of Pending Congressional Requests (Other Than Requests from Committees and Subcommittees)**

I. New Requests

1. Requestor: **Representatives Ed Markey and Joe Barton**
Subject: **Google collecting private email and internet surfing data sent over Wi-Fi networks.**
Type of Request: Request for information
Date of Request: May 19, 2010
Date Received: May 19, 2010
Date Due: June 2, 2010
OS Staff: Don Clark
Other Staff: BCP: Daniel Kaufman, OCR: Kim Vandecar; OGC: Rachel Miller Dawson
Status: Staff is reviewing the request.

Not Responsive

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

Office of the Secretary

June 4, 2010

MEMORANDUM

TO: Willard K. Tom
General Counsel

Jeanne Bumpus
Director, Office of Congressional Relations

FROM: Donald S. Clark and Susan Taylor

SUBJECT: **Status of Pending Congressional Requests (Other Than Requests from Committees and Subcommittees)**

Not Responsive

Not Responsive

2. Requestor:	**Representatives Ed Markey and Joe Barton**
Subject:	**Google collecting private email and internet surfing data sent over Wi-Fi networks.**
Type of Request:	Request for information
Date of Request:	May 19, 2010
Date Received:	May 19, 2010
Date Due:	June 2, 2010
OS Staff:	Don Clark
Other Staff:	BCP: Daniel Kaufman, OCR: Kim Vandecar; OGC: Rachel Miller Dawson
Status:	Staff is reviewing the request.

Not Responsive

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

Office of the Secretary

June 11, 2010

MEMORANDUM

TO: Willard K. Tom
General Counsel

Jeanne Bumpus
Director, Office of Congressional Relations

FROM: Donald S. Clark and Susan Taylor

SUBJECT: **Status of Pending Congressional Requests (Other Than Requests from Committees and Subcommittees)**

Not Responsive

II. Pending Requests

1. Requestor:	**Representatives Ed Markey and Joe Barton**
Subject:	**Google collecting private email and internet surfing data sent over Wi-Fi networks.**
Type of Request:	Request for information
Date of Request:	May 19, 2010
Date Received:	May 19, 2010
Date Due:	June 2, 2010
OS Staff:	Don Clark
Other Staff:	BCP: Daniel Kaufman; OCR: Kim Vandecar; OGC: Rachel Miller Dawson
Status:	Staff is reviewing the request.

Not Responsive

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

Office of the Secretary

June 18, 2010

MEMORANDUM

TO: Willard K. Tom
General Counsel

Jeanne Bumpus
Director, Office of Congressional Relations

FROM: Donald S. Clark and Susan Taylor

SUBJECT: **Status of Pending Congressional Requests (Other Than Requests from Committees and Subcommittees)**

Not Responsive

Not Responsive

III. ***Completed Requests***

1. Requestor:	**Representatives Ed Markey and Joe Barton**
Subject:	**Google collecting private email and internet surfing data sent over Wi-Fi networks.**
Type of Request:	Request for information
Date of Request:	May 19, 2010
Date Received:	May 19, 2010
Date Due:	June 2, 2010
OS Staff:	Don Clark
Other Staff:	BCP: Daniel Kaufman, OCR: Kim Vandecar; OGC: Rachel Miller Dawson
Status:	Response has been delivered.

Koehler, David K.

From: Delaney, Elizabeth
Sent: Tuesday, October 26, 2010 12:48 PM
To: Koehler, David K.
Subject: RE: Google wi-fi

Thanks!

From: Koehler, David K.
Sent: Tuesday, October 26, 2010 8:28 AM
To: Delaney, Elizabeth
Subject: FW: Google wi-fi

Beth: I don't have any substantive concerns to add but, if responding, (b)(5)

(b)(5)

Duplicate

Koehler, David K.

From: Delaney, Elizabeth
Sent: Tuesday, October 26, 2010 1:37 PM
To: Koehler, David K.
Subject: FW: Google wi-fi letter
Attachments: Google.pdf

Thanks! here's what I ended up sending.

Duplicate

Actions in other jurisdictions

Australia - investigation
Canada - investigation
UK - announced there would be no investigation
Ireland - data destroyed
France, Spain, Italy - asked for samples of data
Hamburg prosecutor's office - investigation

Responses received - Australia, NZ, Hong Kong, Italy, Hamburg, Singapore, Austria, Article 29 Working Party

U.S.

(b)(5)

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

July 12, 2010

BY EMAIL AND U.S. MAIL

Albert Gidari, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

Dear Mr. Gidari:

This letter follows up on our meeting on May 25th regarding reports that Google collected WiFi network data, including payload data, using technology installed in its Street View cars. For all questions listed below, please restrict your answer to applicable data collected in the United States, unless otherwise stated. We request that Google provide answers to the following questions by Monday, July 26, 2010.

1. Explain the types of WiFi data collected by Google's Street View cars and the process for collecting such data, including the software and hardware used. Include in your answer the purpose behind Google's collection of each type of data.

2. How and when did Google begin collecting and storing payload data?

3. Please describe the geographical area within the United States from which Google collected payload data.

4. What is the total size of the payload data files collected and stored by Google, both as a concrete number and as a percentage of the payload data collected worldwide?

5. Does the payload data contain personal consumer information, such as passwords, email addresses, and the contents of emails? If so, please describe.

6. How and where was the payload data stored?

7. Who at Google had access to the payload data and when did they have such access?

8. How and when did Google discover payload data was being collected? Prior to this discovery, who at Google knew this data was being collected?

9. What has Google done with the payload data since its discovery?

10. Who at Google has used, analyzed, or otherwise accessed the payload data and for what purpose?

11. Has any WiFi data collected by Google, either in the United States or abroad, been shared with third parties, including any party outside of the United States? Does Google plan to do so?

12. Has Google transferred any WiFi data it collected from any European jurisdiction to the United States? If so, when did this occur and what data was involved in the transfer?

13. What internal review processes and/or remedial actions is Google undertaking with regard to the company's collection of payload data? Has the company made any changes to the oversight of its employees in response to this incident? If so, please describe.

14. Explain what, if any, privacy review Google conducted regarding the company's collection of payload data, including when or if Google assigned a privacy counsel to oversee the collection of WiFi data.

15. Describe any patent applications filed by Google pertaining to the technology used to collect WiFi data. Explain any code review or other technological review that occurred prior or subsequent to any such filing.

16. Please list all countries where Google collected WiFi data and detail the disposition of the data in each jurisdiction.

17. List all formal and information inquiries, investigations, or complaints filed against or with Google pertaining to the company's collection of payload data, including inquiries by Federal, State, foreign or local government agencies.

Thank you for your prompt attention to this matter. Please contact me (202-326-3514, kratte@ftc.gov) or Katherine Race Brin (202-326-2106, kbrin@ftc.gov) if you have any questions about this request or need any additional information.

Sincerely,

Kathryn Ratté /KRB

Kathryn Ratté
Senior Attorney
Division of Privacy and Identity Protection
Bureau of Consumer Protection
Federal Trade Commission

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

September 1, 2010

BY EMAIL AND U.S. MAIL

Albert Gidari, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

Dear Mr. Gidari:

Per our conversation last week, this letter follows up on our July 12th requests for information regarding Google's collection of WiFi network data, including payload data. We ask that Google provide answers to the following questions by Wednesday, September 15, 2010.

1. In your answer to Question 1 of our July 12th letter, you listed five categories of WiFi information purposefully collected by Google by its Street View cars and included a brief explanation of how Google uses MAC addresses to improve Google's location-based services. Further describe:

   a. Google's purpose behind collecting each of the five categories of information;

   b. how the company uses, has used or plans to use each category of information collected, for location-based services or otherwise; and

   c. for each category of information, the amount of time Google retains the data it collects.

2. Describe how or if Google collects and uses information from handheld devices, such as device identifiers or other information, to enhance the company's location-based services. Also, please explain:

   a. how or if this data differs from the WiFi data Google collected using its Street View cars; and

   b. for each category of information collected from handheld devices, the amount of time Google retains the data it collects.

3. In your answer to Question 13 of our July 12th letter, you stated that Google currently is reviewing its product launch procedures, code review procedures and 20% time policy.

Explain:

a. what this review entails;

b. who is undertaking the review;

c. what, if any, results are available from the review at this time; and

d. the expected time frame for completion of the review.

Thank you for your prompt attention to this matter. Please contact me (202-326-3514, kratte@ftc.gov) or Katherine Race Brin (202-326-2106, kbrin@ftc.gov) if you have any questions about this request or need any additional information.

Sincerely,

Kathryn Ratte /KRB

Kathryn Ratté
Senior Attorney
Division of Privacy and Identity Protection
Bureau of Consumer Protection
Federal Trade Commission

Rich, Jessica L.

From: Vladeck, David
Sent: Saturday, October 23, 2010 11:24 AM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Re: Google WiFi

Okay. I have now read the press accounts of the actions by Canada and Spain. (b)(5) (b)(5) I would urge that we clear up Jessica's concerns ASAP and get the letter out, preferably while the Jerusalem conference is still underway. The letter is quite well done. Thanks. D

From: Vladeck, David
To: Rich, Jessica L.; Mithal, Maneesha
Sent: Sat Oct 23 11:04:18 2010
Subject: Fw: Google WiFi

Not helpful. D

From: Weinman, Yael
To: Brill, Julie; McKewen, Richard; Vladeck, David
Sent: Sat Oct 23 08:28:26 2010
Subject: Google WiFi

Article form BNA's Privacy and Security Law Report. Something to be aware of going into this conference.

Enforcement
Spain, Canada: Google WiFi Snafu Broke Law;
DPAs Take Divergent Data Enforcement Paths
The Spanish Data Protection Authority (AEPD) Oct. 18, and the Office of the Privacy Commissioner of Canada Oct. 19, announced that their separate investigations of Google Inc.'s collection of user internet content data from unsecured wireless connections violated their respective nations' privacy laws.
The DPAs, however, had different enforcement responses to their investigative findings.
The AEPD said it has started enforcement proceedings, which could eventually result in financial sanctions of more than $3 million. The Canadian Privacy Office said it sent a letter to Google, asking the company to promise to change certain practices and report back to the office by early 2011.
Google in mid-May revealed what it said was its inadvertent collection of WiFi location and content data with equipment mounted on its Street View mapping project photographic image collection vehicles (9 PVLR 770, 5/24/10).
Spain Awaits Court Decision
In an Oct. 18 statement, Spain's AEPD said its investigation of Google's WiFi collection revealed two "serious" and three "very serious" violations of the country's Organic Data Protection Act (Law 15/1999, LOPD) and as a result had initiated sanctions proceedings against Google and Google Spain.
The serious infractions included the non-consensual capturing and storage of some 13 gigabytes of personal data, such as the names of Wi-Fi account owners, their e-mail addresses, e-mail messages, and instant messaging messages. "Very serious" infractions included the capture of data, such as codes and passwords, allowing access to "especially protected data."
The AEPD also said it had detected international data transfers to the United States, carried out by Google without "respect for the guarantees foreseen in the LOPD," which is also classified as a very

serious infraction.
In total, the five infractions could bring fines of up to €2.4 million ($3.3 million). While "serious" breaches of the LOPD can bring fines of anywhere between €60,101 ($83,000) and €300,506 ($415,000), "very serious" infractions can bring fines of up to €601,012 ($830,000).
Commercial benefit from an infraction is one of the factors the AEPD takes into account when assessing the highest fines. Google has said it made no commercial use of the collected WiFi data.
The imposition of any fines will have to await the resolution of a similar case against Google in a Madrid court, the AEPD said. In order to avoid fining Google twice for the same infractions, the AEPD said it would temporarily suspend the sanctions process until a proceeding, which it did not identify by name, was resolved by a Madrid Examining Magistrate's Court.
The AEPD said it has sent its internal investigation report, which it declined to make public, to the Magistrate's Court.
Canada Seeks Reform Assurances
Federal Privacy Commissioner Jennifer Stoddart said Oct. 19 that Google's WiFi collection of potentially thousands of Canadians' personal information violated the Personal Information Protection and Electronic Documents Act.
"Our investigation shows that Google did capture personal information—and, in some cases, highly sensitive personal information such as complete e-mails. This incident was a serious violation," Stoddart said in a statement.
The investigation, which included a site visit to Google headquarters in Mountain View, Calif, confirmed that Google collected user names and passwords and very sensitive data, such as a list of people suffering from medical conditions and their telephone numbers and addresses, she said.
The Office of the Privacy Commissioner has asked Google to address the incident by ensuring that it has a governance model in place that complies with privacy laws, including controls to ensure that necessary privacy protection procedures are followed before products are launched, she said.
In a preliminary letter of findings, the office also recommended enhanced privacy training for Google employees, designation of an individual responsible for privacy issues, and deletion by Google of the Canadian data it collected or measures to secure it if it needs to be retained as evidence for legal proceedings, Stoddart said.
The case will be considered resolved if the privacy agency receives confirmation by Feb. 1, 2011 that Google has fully implemented the recommendations, she said.
Stoddart agreed with Google's assertion that it mistakenly collected the WiFi data at issue. She said that "this incident was the result of a careless error" but added that the mistake was "one that could easily have been avoided" had proper privacy safeguards been in place.
In addition to actions by privacy regulators, Google is facing at least eight consolidated consumer class actions in federal court over its interception of internet data from unsecured wireless connections (9 PVLR 1249, 9/6/10).

By Brett Allan King (Madrid) and Peter Menyasz (Ottawa)

The Office of the Privacy Commissioner of Canada's "Preliminary Letter of Findings" is available at http://www.priv.gc.ca/media/nr-c/2010/let_101019_e.cfm.

Rich, Jessica L.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 3:34 PM
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Subject: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

/ladeck Google WiFi letter 10 ...

ending again, to make sure I sent the correct version. (b)(5)

(b)(5)

Ratte, Kathryn D.

From: JDL
Sent: Wednesday, October 27, 2010 5:01 PM
To: Eichorn, Mark
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.; Mithal, Maneesha; Brin, Katherine Race
Subject: RE: Google Wi-fi Petition

Excellent, I think that's about as well as we could do. We ought to brief him (and other privacy advocates) in any future privacy cases, especially public closings, if (and when) appropriate.
Thanks, Mark.
Jon

From: Eichorn, Mark
Sent: Wednesday, October 27, 2010 4:51 PM
To: JDL
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.; Mithal, Maneesha; Brin, Katherine Race
Subject: Google Wi-fi Petition

I just got a call back from John Simpson after calling him earlier this afternoon. The call was cordial. I apologized for not giving him a simultaneous heads up when the letter went out; he was understanding.

He said he thought the closing of the investigation was "premature." We talked about the lack of harm here and he got the fact that that would be a key consideration for us. I talked about how we were sending the message in the roundtables and in this letter that companies shouldn't collect data they don't need or retain it longer than they need. Later he asked about the timing of the roundtable report and how best to direct his petitions. So, while he isn't necessarily happy with the result here, ultimately I don't think he's upset with the agency.

Ratte, Kathryn D.

From: Clark, Donald S.
Sent: Wednesday, October 27, 2010 8:10 AM
To: Webteam; Shapiro, Howard
Cc: OSBCP; Vladeck, David; Ratte, Kathryn D.; Brin, Katherine Race; Young, Kial
Subject: For 9 a.m. Today, Wednesday, October 27th: Staff Closing Letter in Google
Attachments: Google Letter 10-27-10.pdf

At 9 a.m. today, Wednesday, October 27th (there will not be a news release), please place the attached closing letter at the top of the Staff Closing Letters page, under the October 2010 section, at the following URL:

http://www.ftc.gov/os/closings/staffclosing.shtm

and use the following caption:

October 27, 2010

Google Inquiry

Letter to Albert Gidari, Esq., Counsel for Google, From David C. Vladeck, Director, Bureau of Consumer Protection

Thanks!

Don

Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]

Sent: Tuesday, October 26, 2010 7:38 PM

To: Ratte, Kathryn D.

Subject: Out of Office: WiFi letter

I am traveling and in meetings from Tuesday, Oct. 26th to Thursday, Oct. 28th, and will be slow to respond to email . Thank you for your patience.

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Ratte, Kathryn D.

From: Crawford, Molly
Sent: Tuesday, October 26, 2010 7:39 PM
To: Ratte, Kathryn D.
Attachments: 10.27.10 letter.PDF

Molly Crawford
Attorney
Division of Privacy & Identity Protection
Bureau of Consumer Protection
Federal Trade Commission
601 New Jersey Ave., NW
Washington, DC 20580
202.326.3076 (v)
202.326.3768 (fax)

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Ratte, Kathryn D.

From: Schafer, Scott (AGO) [Scott.Schafer@state.ma.us]
Sent: Thursday, October 28, 2010 7:54 AM
To: Ratte, Kathryn D.
Cc: Schafer, Scott (AGO); Nielsen, Christine; Brin, Katherine Race
Subject: Re: heads up

Thank you Katie.

Sent from my iPhone

On Oct 27, 2010, at 4:20 PM, "Ratte, Kathryn D." <KRATTE@ftc.gov> wrote:

> Hi Scott and Christine,
>
> Sorry for the late notice, but we sent a letter to Google today basically closing our inquiry (and raising some issues with their procedures). It's very similar to what we talked about before, and it's at http://www.ftc.gov/os/closings/101027googleletter.pdf. Let us know if you have any questions.
>
> Thanks! Katie
>
> Kathryn Ratté
> Division of Privacy and Identity Protection
> Federal Trade Commission
> 600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
> Washington, D.C. 20580
> Phone: (202) 326-3514
> Fax: (202) 326-3768

Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 3:58 PM
To: Ratte, Kathryn D.
Subject: RE: WiFi - Supplemental Response

great - and thanks for the time as well.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Monday, October 25, 2010 12:52 PM
To: Gidari, Al (Perkins Coie); Brin, Katherine Race
Subject: RE: WiFi - Supplemental Response

Al – thanks for taking the time to chat with us just now. In case I didn't mention it on the call, we received (and appreciate) the attached follow-up information. Thanks! Katie and Katie

---

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 1:48 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: WiFi - Supplemental Response

Katie and Katie - here is the supplemental response. For something that says so little, it took longer than expected, but I'm sure you appreciate the time and effort it took to run down every possible engineering group who may have had a use for the WiFi data - no one wanted to make an error like the one that started this mess. So thank you for your patience and I'll talk to you in a while.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Tuesday, October 19, 2010 11:08 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: Update on WiFi

Katies - I got the final confirmation on the WiFi data usage question and will draft a response today for you so hope to have it to you in the next day or so. (b)(3):21(f) (b)(3):21(f) I'll try to capture that information and send it to you. Finally, we'll have some process improvements to discuss with you shortly too. Thanks for your patience.

Al

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Thursday, October 14, 2010 11:31 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: WiFi follow up

you must have a 2 week tickler :}

Sorry to be taking so long but it has been difficult to track down the data usage information to ensure we have a complete answer. We have a meeting later today with the last person in the chain so I'm hoping we have all the answers today. Thanks for your patience.

We also have our Buzz update in hand to provide you per our call as well. So first of the week seems likely. Thanks for checking.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

Duplicate

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Thursday, September 16, 2010 11:34 AM
To: Eichorn, Mark; Ratte, Kathryn D.; Han, Cora Tung
Subject: Skyhook sues Google over Motorola mapping deal

http://news.cnet.com/8301-30684_3-20016603-265.html

It was only a matter of time.

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Soltani, Ashkan
Sent: Thursday, September 16, 2010 10:51 AM
To: Brin, Katherine Race; Ratte, Kathryn D.
Cc: Olsen, Christopher
Subject: Creepy Google Engineer - 4 questions

Gawker has a good follow-up on the original story: http://gawker.com/5639266/

(b)(5)

-a

Ashkan Soltani
Technologist, Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW, NJ-8134
Washington, DC 20001
202.326.2004

Ratte, Kathryn D.

From: Fahringer, Susan (Perkins Coie) [SFahringer@perkinscoie.com]
Sent: Wednesday, September 15, 2010 7:21 PM
To: Ratte, Kathryn D.
Cc: Gidari, Al (Perkins Coie); Gregory, Rebecca (Perkins Coie)
Subject: Google WiFi
Attachments: 2010-09-15 Gidari - Fahringer Letter to K. Ratte.PDF

Dear Katie:
Please see the attached, in answer to your further questions regarding Google's collection of WiFi network data.
Best regards,
Susan

Susan Fahringer | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101
Tel.: 206.359.8687
Fax: 206.359.9687
(b)(6)
SFahringer@perkinscoie.com

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Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Friday, September 03, 2010 8:57 AM
To: Ratte, Kathryn D.; Eichorn, Mark
Subject: Google data gathering was not a crime: NZealand

http://www.google.com/hostednews/afp/article/ALeqM5gAuiisGUGgI_ofLWUe29LUw3LKTA

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Wednesday, September 01, 2010 10:52 AM
To: 'Gidari, Al (Perkins Coie)'
Cc: Ratte, Kathryn D.
Subject: Follow-up WiFi letter
Attachments: Google WiFi letter 9.1.10.pdf

Al: As we discussed last week, attached please find a few follow-up requests regarding Google's collection of WiFi data. Please let us know if you have any questions.

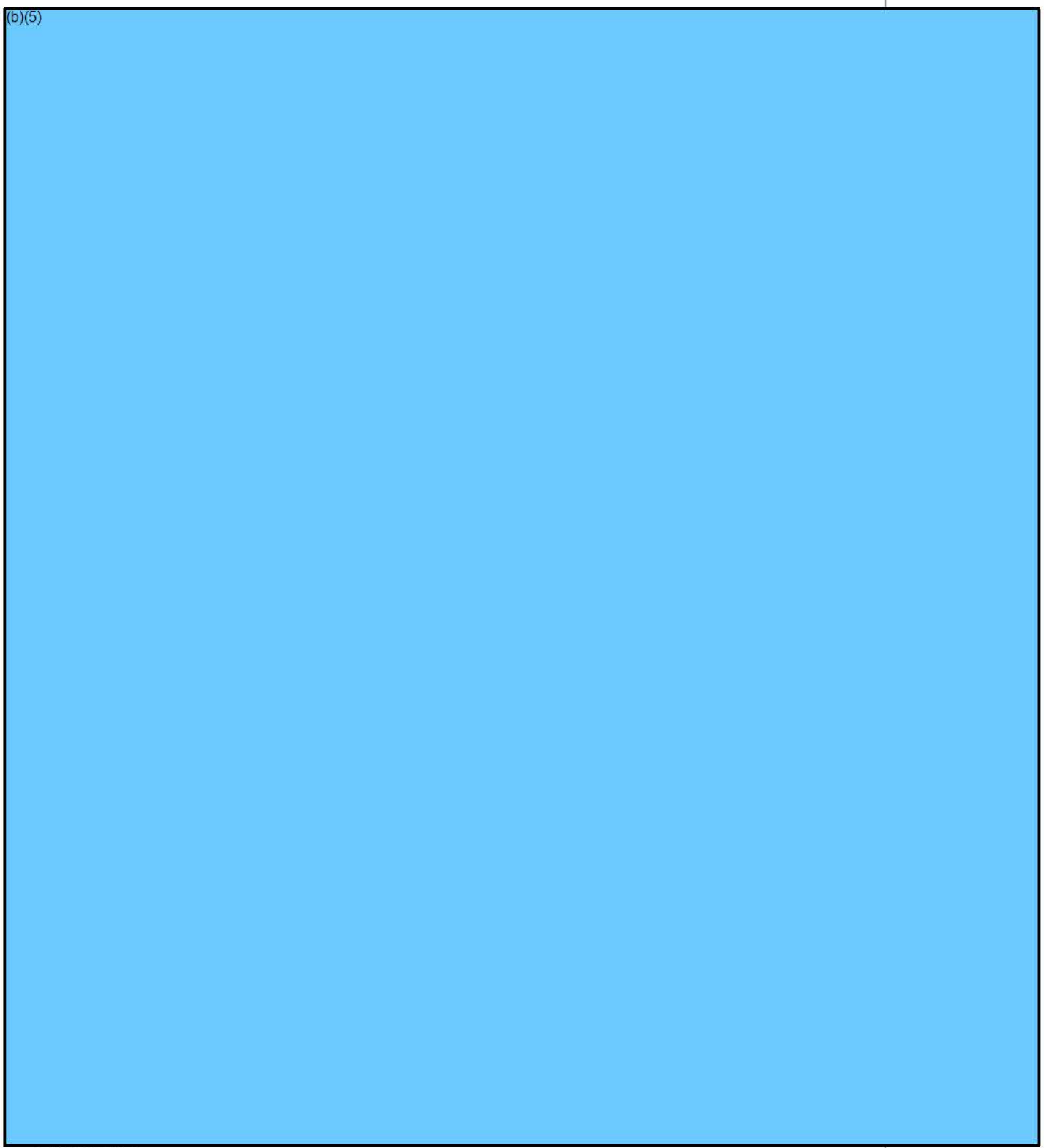
Thanks,
Katie

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Weinman, Yael
Sent: Wednesday, September 01, 2010 9:24 AM
To: Ratte, Kathryn D.
Cc: Heyder, Markus B.
Subject: Fw: 2010-08-30 Google Resumes Street View Filming Despite Privacy Watchdog Concerns.docx

(b)(5)



Ratte, Kathryn D.

From: Rich, Jessica L.
Sent: Wednesday, August 25, 2010 11:24 AM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha
Cc: Soltani, Ashkan; Brin, Katherine Race
Subject: RE: WiFi data collection

Sounds good to me, and thanks for summarizing this so clearly! (b)(5)

(b)(5)

From: Ratte, Kathryn D.
Sent: Wednesday, August 25, 2010 11:08 AM
To: Eichorn, Mark; Mithal, Maneesha; Rich, Jessica L.
Cc: Soltani, Ashkan; Brin, Katherine Race
Subject: WiFi data collection

Hi everyone –

(b)(3):6(f),(b)(4)

(b)(5)

Thanks! Katie and Katie

From: Frank Torres (LCA) [mailto:ftorres@microsoft.com]
Sent: Tuesday, August 24, 2010 3:03 PM
To: Ratte, Kathryn D.
Cc: Ben Rickert (LCA); Linda Norman (LCA)
Subject: Call Today

Katie,
We are looking forward to our call today.
In addition to the written description I sent earlier, here is a deck that also helps describe what we'll be doing.
Linda and Ben will use deck for our call.
Thanks,
Frank.

Ratte, Kathryn D.

From: Rich, Jessica L.
Sent: Monday, August 23, 2010 5:51 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Subject: FW: Information on WiFi/Geo-Location
Attachments: (b)(3):6(f),(b)(4) [redacted]

From: Frank Torres (LCA) [mailto:ftorres@microsoft.com]
Sent: Monday, August 23, 2010 5:14 PM
To: Lupovitz, Joni; Mithal, Maneesha
Cc: Rich, Jessica L.; Frank Torres (LCA)
Subject: Information on WiFi/Geo-Location

Joni and Maneesha,

(b)(3):6(f),(b)(4) [redacted]

(b)(3):6(f),(b)(4) [redacted] Please let us know if you have any questions or would like any additional information.

Thanks,
Frank.

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Wednesday, July 28, 2010 1:43 PM
To: Ratte, Kathryn D.; Soltani, Ashkan
Subject: ICO visited Google to check Street View Wi-Fi data

http://www.v3.co.uk/v3/news/2267128/ico-visited-google-offices

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Monday, July 12, 2010 10:13 AM
To: 'Gidari, Al (Perkins Coie)'
Cc: Ratte, Kathryn D.
Subject: RE: Google WiFi
Attachments: Google WiFi letter 7.12.10.pdf

Al: Attached please find the letter regarding Google WiFi. Please let us know if you have any questions.

Thanks,
Katie

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Friday, July 09, 2010 1:34 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google WiFi

Thanks Katie - we welcome your questions and if it is useful, I'd also be happy to visit again (regardless of the temperature). We obviously prefer to keep this an informal process for lots of reasons so thank you for the letter instead of a CID or access inquiry - and obviously, we will open and cooperative with your inquiry.

I also want to let you know that we have firmed up a session with the CT AG on July 23d in Hartford to do a meeting as we did with you on their multistate effort.

Have a nice weekend.

Al

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)

(b)(6)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Friday, July 09, 2010 10:30 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: Re: Google WiFi

Thanks Al, we appreciate the update and will review the materials you provided regarding (b)(3):21(f) (b)(3):21(f) We wanted to give you a heads up that as previously discussed, we plan to follow up with some written questions of our own. The letter will most likely be just that, and not a more formal CID or access letter. We hope to get that to you Monday. Please let me know if you have any questions.

Katie

From: Gidari, Al (Perkins Coie) <AGidari@perkinscoie.com>
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Sent: Fri Jul 09 12:59:12 2010
Subject: Google WiFi

Katie - I wanted to update you on the Google WiFi progress (b)(3):21(f)
(b)(3):21(f)
(b)(3):21(f) Please let me know if you have questions.
(b)(3):21(f)

Al

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

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Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Monday, June 28, 2010 9:38 AM
To: Ratte, Kathryn D.
Subject: FW: Jun. 21 -- BNA, Inc. Privacy & Security Law Report
Attachments: 9 pvlr 909 google wifi.pdf; 9 PVLR 911 google germany wifi.pdf

---

From: Stack, Laura
Sent: Monday, June 28, 2010 9:37 AM
To: Brin, Katherine Race
Subject: RE: Jun. 21 -- BNA, Inc. Privacy & Security Law Report

Sure – two attached, two below

Enforcement
Google Formalizes Pact With Hong Kong DPA
On WiFi Data Collection Remedial Measures
Google Inc. signed a formal written commitment supporting its previous pledge to the Hong Kong Office of the Privacy Commissioner to abide by the office's restrictions on the handing of data that Google collected from wireless internet transmissions during its Street View mapping program in the country, the office announced in a June 8 statement.
The Hong Kong data protection authority was one of the first to react to Google's May 14 revelation that it had collected the contents of data sent over unsecured WiFi networks (9 PVLR 770, 5/24/10).
On May 17, the office opened a formal privacy compliance review of Google's WiFi data collection and met with Google officials May 18. At that meeting Google verbally promised not to resume WiFi data collection in Hong Kong, not to destroy collected data until directed to do so by the DPA, and to abide by the country's Personal Data (Privacy) Ordinance (9 PVLR 772, 5/24/10.
Google has now formalized its promises in a written agreement, known as an "undertaking," Hong Kong Privacy Commissioner for Personal Data Roderick B. Woo said in the statement. Woo said he will review a third party computer forensic consultant's report on the matter (9 PVLR 871, 6/14/10) before deciding whether to proceed with a formal enforcement action against Google.

>>>>>>>>

Internet
Google Turns Over French WiFi Data; CNIL
Says Collection, Sharing Broke Privacy Law
PARIS—Google Inc.'s collection of content transmitted over unsecured wireless internet networks during its Street View mapping operations violated France's framework privacy law, the French data protection authority (CNIL) said in a June 17 statement.
In addition, Google's sharing of collected WiFi data with other services it offers users also violated France's Law on Information Technology and Liberties (78-17 of 1978, updated 2004) by compromising the privacy of people using the WiFi networks, CNIL said.
In April, Google revealed to data protection and other regulatory authorities in some 34 countries where it had Street View map operations that it had collected WiFi location data. On May 17, Google announced that it had also inadvertently collected some content of messages sent over those networks (9 PVLR 770, 5/24/10).
CNIL Analysis of Surrendered Google Data
Following a May 19 on-site inspection of Google's French operations, the CNIL ordered the company to turn over all data Street View had collected from unsecured WiFi networks without the permission of data subjects, the statement said.
Google June 4 turned over a large quantity of data, including source code and audit reports, CNIL said. In addition,

Google provided a letter responding to the CNIL's legal and technical questions, the CNIL said.
The CNIL said Google has turned over data in the case that the authority is currently analyzing. The data show that Google recorded e-mail passwords and excerpts of e-mail messages of people using unsecured WiFi networks scanned by Street View vehicles, the CNIL said.
The CNIL said it is "much too early" to make final conclusions about possible enforcement action. But said it has already warned the company to correct several problems. Among other things, it ordered Google to cease non-consensual collection of data which can be used to identify and locate users via such networks, particularly service set identifier (SSID) data from WiFi networks and Media Access Control (MAC) addresses from network routers.
Sharing Data Also Violated Law
The CNIL also announced it found that Google had provided user data from the WiFi collection to other Google services, including Google Maps and Google "Latitude"—a service that allows Google to track cell phone or other mobile devices to allow others, in real-time, to see the location on a map of the individual using the devices.
The authority said it had been trying since late 2009 to obtain clarification from Google about its data processing activities in France, and that the new data "confirm" what it had suspected about Latitude.
The CNIL said that Google's sharing of data collected from WiFi networks with Latitude also violated France's privacy law. The CNIL emphasized that Google had failed to formally report its use of French data subject information for the Latitude service.
Meanwhile, data protection authorities in two German states have filed complaints against Google (*see related report in this issue*).
Google recently wrote to members of the U.S. Congress, saying its collection of unsecured WiFi location and content data did not violate any U.S. laws, but made no assertions regarding possible breaches of data protection laws in other countries (*see related report in this issue*).

By Rick Mitchell

From: Brin, Katherine Race
Sent: Thursday, June 24, 2010 9:25 AM
To: Stack, Laura
Cc: Ratte, Kathryn D.
Subject: RE: Jun. 21 -- BNA, Inc. Privacy & Security Law Report

Hi Laura. Do you mind sending me the four Google WiFi articles? Thanks!

From: Stack, Laura
Sent: Wednesday, June 23, 2010 10:23 AM
To: 1154DL
Subject: FW: Jun. 21 -- BNA, Inc. Privacy & Security Law Report

FYI – Let me know if you would like any of these.

From: BNA Highlights [mailto:bhighlig@bna.com]
Sent: Saturday, June 19, 2010 3:42 AM
To: Stack, Laura
Subject: Jun. 21 -- BNA, Inc. Privacy & Security Law Report

E-mail not displaying correctly? View publication in your browser: http://news.bna.com/pvln

PUBLICATION HOME ABOUT CONTACT US

LATEST NEWS BNA INSIGHTS SEARCH FULL PUBLICATION

June 21, 2010 • Volume 9 Number 25

Not Responsive

FOCUS

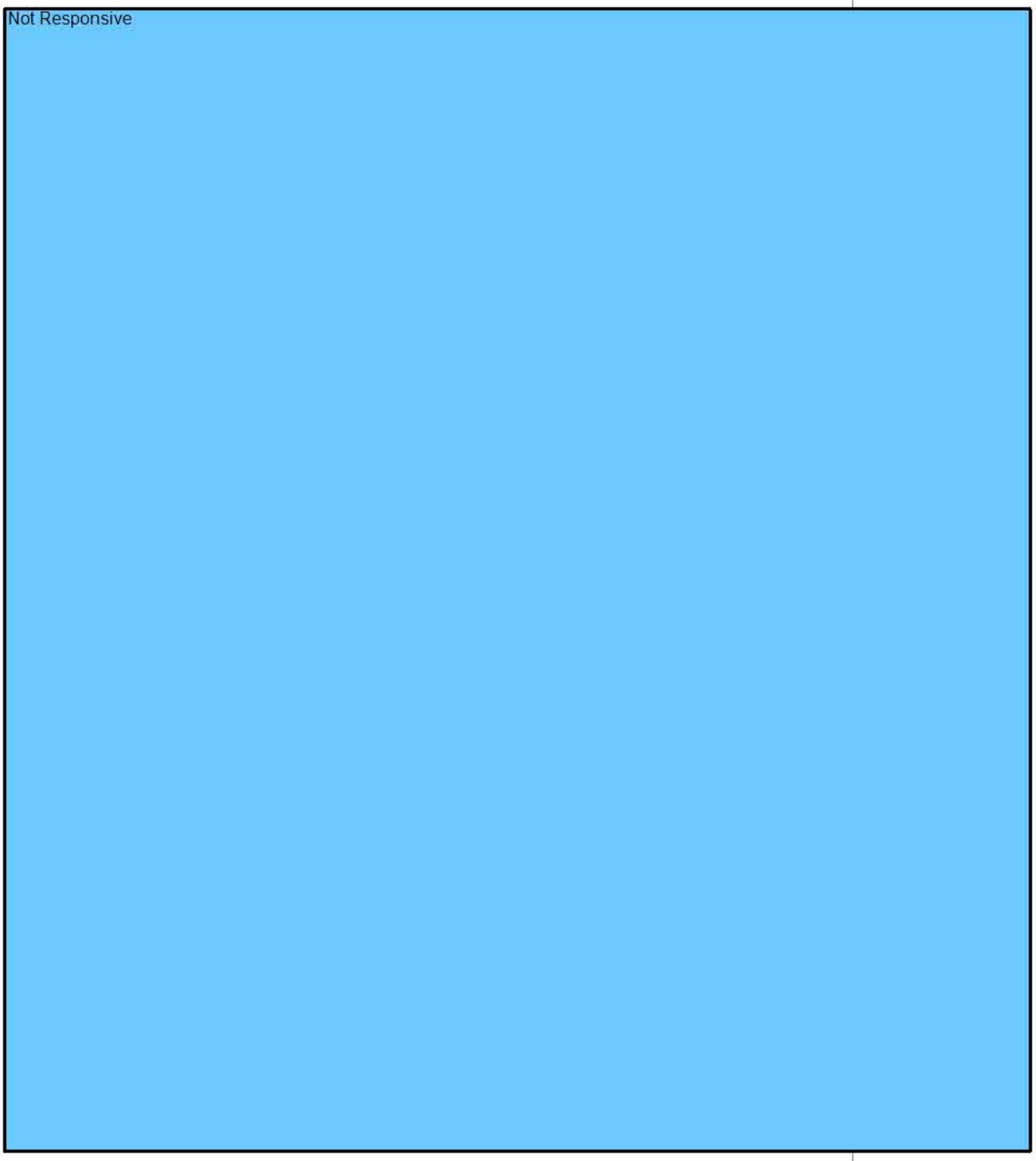
Internet
WiFi Data Collection Was Legal, Google Tells House Panel; FCC Registers Privacy Concerns
Google Inc. does not believe that the collection of user content sent over unsecured wireless internet networks violated any U.S. law, the company told House Energy and Commerce Committee leaders in a letter made public by the committee June...

Enforcement
Google Formalizes Pact With Hong Kong DPA On WiFi Data Collection Remedial Measures
Google Inc. signed a formal written commitment supporting its previous pledge to the Hong Kong Office of the Privacy Commissioner to abide by the office's restrictions on the

handing of data that Google collected from wireless internet...

Internet
German State Privacy Offices File Complaints Against Google Over Collection of WiFi Data
BERLIN—The data protection authority (DPA) in Germany's federal state of Rhineland-Palatinate has filed a complaint against Google in Germany and in the United States for unlawfully collecting wireless internet network data,...

Internet
Google Turns Over French WiFi Data; CNIL Says Collection, Sharing Broke Privacy Law
PARIS—Google Inc.'s collection of content transmitted over unsecured wireless internet networks during its Street View mapping operations violated France's framework privacy law, the French data protection authority...



Privacy & Security Law Report®

9 PVLR 909

Internet

WiFi Data Collection Was Legal, Google Tells House Panel; FCC Registers Privacy Concerns

Google Inc. does not believe that the collection of user content sent over unsecured wireless internet networks violated any U.S. law, the company told House Energy and Commerce Committee leaders in a letter made public by the committee June 11.

But having the legal right to collect such data without user consent did not mean Google believed it should have done so, the company said in the letter to the committee, adding that it was "profoundly sorry" for having gathering content data, also known as "payload" data.

In May, Google told data protection and other regulatory authorities in the approximately 34 countries where it had Street View map operations, including the United States, that it had inadvertently collected WiFi location and content data (9 PVLR 770, 5/24/10).

"Transparency and trust are the key cornerstones that form the foundation of strong privacy protections for consumers. It's clear that in this case, Google fell short in both these areas," House Energy and Commerce Subcommittee on Energy and Environment Chairman Edward Markey (D-Mass.) said in a June 11 statement commenting on Google's letter.

Also June 11, the Federal Communications Commission broke its silence on the Google WiFi matter, saying Google's actions raised important privacy concerns.

Google Cites Lack of Encryption

Google's June 9 letter to Commerce Committee Chairman Henry A. Waxman (D-Calif.), Ranking Member Joe Barton (R-Texas), and Rep. Markey came in response to a May 26 letter from Barton and Markey. In addition to their Commerce leadership posts, Barton and Markey serve as co-chairmen of the House Privacy Caucus.

In the letter, the congressman asked if Google had "conducted a legal analysis regarding the applicability of consumer privacy laws on the monitoring and data collection of Wi-Fi transmissions?"

Pablo Chavez, Google's director of public policy, said in Google's response that the company could not disclose "confidential legal advice" but stated:

> We believe it does not violate U.S. law to collect payload data from networks that are configured to be openly accessible (i.e., not secured by encryption and thus accessible by any user's device).

WiFi users, however, have filed putative federal class actions alleging that Google engaged in unlawful interception of communications in violation of the Stored Communications Act (9 PVLR 792, 5/31/10) and the federal Wiretap Act (9 PVLR 771, 5/24/10).

In addition, attorneys general in at least two states—Connecticut and Missouri—have formally asked Google to provide details on the collection of WiFi data on the residents of their states (9 PVLR 871, 6/14/10).

Chavez emphasized in the Google letter that "being lawful and being the right thing to do are two different things." He said that Google acknowledged that "collecting payload data was a mistake" and reaffirmed that the company had stopped collecting WiFi data.

"We believe it does not violate U.S. law to collect payload data from networks that are configured to be openly accessible (i.e., not secured by encryption and thus accessible by any user's

device)."

Pablo Chavez, Director of Public Policy
Google Inc.

Google announced in a May 14 official blog post that it had ceased its WiFi data collection after German data protection authorities raised privacy concerns about the internet giant's collection and use of such data (9 PVLR 770, 5/24/10).

House Judiciary Committee Chairman John Conyers (D-Mich.) has also written Google a letter asking for details on its WiFi data collection (9 PVLR 828, 6/7/10). To date, Conyers has not released information on a response by Google, if any, to his letter.

Google made no claims in its letter to Commerce Committee leaders that its actions did not violate laws of other countries. The federal Attorney General of Australia has ordered a criminal investigation of whether Google's actions violated the country's Telecommunications Interception Act (9 PVLR 872, 6/14/10). The Office of the Privacy Commissioner in neighboring New Zealand is also seeking a police probe of Google's actions (9 PVLR 871, 6/14/10).

Commerce Hearing Anticipated

In the Google letter, Chavez also responded to Commerce Committee questions on technical details of Google's WiFi data collection. He pointed to a third party forensic consulting firm's recent report that addressed how software code allowing the collection of payload data made its way into the Street View program (9 PVLR 871, 6/14/10).

But Chavez said that Google was unable to respond to the committee's questions on how many WiFi networks it collected data from or exactly what kind of data was collected. "We have not identified a reliable method to determine the number of WiFi networks for which data has been collected. We will update you as soon as possible," Chavez wrote.

"Google now confesses it has been collecting people's information for years, yet claims they still do not know exactly what they collected and who was vulnerable. This is deeply troubling for a company that bases its business model on gathering consumer data," Barton said in a June 11 statement.

Barton called for a hearing on the Google WiFi matter, saying it is appropriate given the committee's current consideration of privacy legislation.

Commerce Subcommittee on Communications, Technology, and the Internet Chairman Rick Boucher (D-Va.) and Cliff Stearns (R-Fla.), the subcommittee's ranking member, have circulated a draft legislative proposal to regulate the online and offline collection and use of personal data by certain businesses (9 PVLR 657, 5/10/10).

Barton added that Google's failure to be able to provide details on the WiFi data it collected "is even more disturbing and ironic in view of the fact that Google is lobbying the government to regulate Internet service providers, but not Google."

The committee is involved in reviewing the FCC's internet broadband proposal, including whether the commission has the authority to take on new privacy oversight functions to regulate the practices of ISPs (9 PVLR 826, 6/7/10).

FCC Concerned About Google Collection

The FCC June 11 for the first time weighed in publicly on the Google WiFi matter.

In an official blog post, Joel Gurin, chief of the FCC Consumer and Governmental Affairs Bureau, said that Google's behavior had raised important privacy concerns with the commission. "Whether intentional or not, collecting information sent over WiFi networks clearly infringes on consumer privacy," Gurin said.

The Electronic Privacy Information Center May 24 announced that it had sent the FCC a letter urging the commission to investigate Google's WiFi data collection as a possible violation of the federal Wiretap Act, 18 U.S.C. §§ 2511 and the Electronic Communications Privacy Act, 18 U.S.C. § 2510 (9 PVLR 790, 5/31/10).

EPIC said that Google's actions appeared to violated the Communications Act's prohibition on the nonconsensual interception of radio communications, 47 U.S.C. § 605. Under Section 705 of the Communications Act, first time violators can be sanctioned with fines of up to $50,000 and a prison term of up to two years for using unlawfully intercepted communications for commercial gain, EPIC

emphasized.

In their statement on Google's response to their inquiry, Barton and Markey said they had written to Federal Trade Commission Chairman Jon Leibowitz , urging the FTC to open an investigation of the Google WiFi matter (9 PVLR 773, 5/24/10).

A California-based consumer group also has urged the FTC to investigate Google (9 PVLR 773, 5/24/10).

As of June 9, neither the FTC nor members of Congress have released any information on whether the commission intends to open such an investigation.

Google Confirms Some Data Destroyed

When Google first revealed that it had collected WiFi data, the company said one of its primary goals was to delete the collected data as soon as possible after consulting with privacy regulators.

Google previously confirmed that it had destroyed WiFi data collected in Ireland at the request of the country's Office of the Data Protection Commissioner (9 PVLR 773, 5/24/10).

In its letter to Commerce Committee leaders, Google confirmed that it had also deleted WiFi data collected in Austria and Denmark at the request of data protection authorities in those countries.

The U.K. Information Commissioner's Office first instructed Google to delete WiFi data collected in the United Kingdom, saying that it saw no reason to retain the data as evidence and therefore sought its destruction to comply with the data protection principle that information should be retained only as long as necessary (9 PVLR 772, 5/24/10). The office later changed its mind given the push by others—including U.S. class action plaintiffs (9 PVLR 792, 5/31/10)—to ensure that Google retained the data for evidentiary purposes and until it could be independently examined by privacy officials.

In Hong Kong, Google has agreed to retain the data collected there until ordered to destroy it by the DPA (*see box*).

Meanwhile, data protection authorities in two German states have filed complaints against Google (*see related report in this issue*) and the French data protection authority (CNIL) has announced that Google's actions in collecting WiFi data, as well as sharing that data with other Google user services, violated French privacy law (*see related report in this issue*).

By Donald G. Aplin

Google's June 9 letter to Reps. Waxman, Barton, and Markey is available at http://energycommerce.house.gov/documents/20100611/Google.Response.06.09.2010.pdf.

The May 26 letter from Reps. Barton and Markey to Google is available at http://energycommerce.house.gov/documents/20100526/Letter.Schmidt.Google.05.26.2010.pdf.

The FCC's blog post is available at http://reboot.fcc.gov/blog?entryId=493624.

Enforcement

Google Formalizes Pact With Hong Kong DPA On WiFi Data Collection Remedial Measures

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Google has now formalized its promises in a written agreement, known as an "undertaking," Hong Kong Privacy Commissioner for Personal Data Roderick B. Woo said in the statement. Woo said he will review a third party computer forensic consultant's report on the matter (9

PVLR 871, 6/14/10) before deciding whether to proceed with a formal enforcement action against Google.

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Ratte, Kathryn D.

From: Mithal, Maneesha
Sent: Saturday, June 26, 2010 9:22 AM
To: Brill, Julie
Cc: Ratte, Kathryn D.
Subject: Re: Interesting articles re Google

Thanks for passing this on, Julie. I'm cc'ing Katie Ratte, our lead attorney on Google matters.

From: Brill, Julie
To: Mithal, Maneesha
Sent: Fri Jun 25 18:47:40 2010
Subject: Interesting articles re Google

Hi, Maneesha. Have you and our staff looking at the Google matter seen the attached articles? I'm guessing you probably did, but just in case, I'm sending them along. The first one is a Financial Times story containing an admission from Google's CEO that "he could not rule out that personal data such as bank account details were among the data collected" by its data vacuuming efforts. The second one is a ComputerWorld article noting that Google actually submitted a formal patent application on the data vacuuming technology that it claims it *accidentally* used to collect all of the open WiFi payload data.

Take care. Best, Julie

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Thursday, June 24, 2010 11:18 AM
To: Ratte, Kathryn D.
Subject: Google WiFi podcast

This is kind of an interesting podcast about Google Wifi, whenever you have a chance to watch it. (b)(5)
(b)(5)

http://www.cnet.com/8301-19709_1-20008342-10.html

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(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Heyder, Markus B.
Sent: Friday, June 18, 2010 2:39 PM
To: Stevenson, Hugh G.; Weinman, Yael; Ratte, Kathryn D.
Subject: Fw: [Iwgdpt-list] Google Wi-Fi
Attachments: PRIVACY-#274780-v1-FR_-_News_Release_-_Google_WiFi.DOC; PRIVACY-#274769-v1-News_Release_-_Google_WiFi.DOC; ATT00001..txt

Re Canada Google investigation.

From: iwgdpt-list-bounces@datenschutz-berlin.de <iwgdpt-list-bounces@datenschutz-berlin.de>
To: 'iwgdpt-list@datenschutz-berlin.de' <iwgdpt-list@datenschutz-berlin.de>
Sent: Fri Jun 18 14:31:31 2010
Subject: [Iwgdpt-list] Google Wi-Fi

WG Colleagues:

Some of you may already know this, having received an earlier e-mail from my colleague Carman Baggaley, but I wanted to let you know that on 1 June the Office of the Privacy Commissioner Canada informed Google Inc that it has launched a Commissioner-initiated complaint with respect to the possible collection of personal information from unsecured wireless networks that may have occurred as its cars were photographing streetscapes for its Street View map service. Please see the attached Press Release in French and English.

We are aware that several countries either have examined or are planning to examine the data collected by Google. Now that we are formally investigating Google, we are subject to certain confidentiality provisions in terms of our ability to share any information we obtain in the course of our investigation. Having said that, I have spoken at some length with our legal counsel and we can discuss technical issues with our international colleagues.

With that in mind, we would appreciate hearing from those authorities that either have examined or are contemplating examining the Google data. We would be interested in setting up an informal exchange of information amongst technical experts concerning analysis tools, techniques, etc.

Regards

Steve

Steven Johnston
Senior Security and Technology Advisor/
Conseiller principal en sécurité et en technologie
Office of the Privacy Commissioner of Canada/
Commissariat a la protection de la vie privée du Canada
Ph/Tel: (613) 943-2412
Fax/Telec: (613) 995-1139
E-mail/Courriel: Steven.Johnston@priv.gc.ca

Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 16, 2010 7:52 PM
To: Ratte, Kathryn D.
Subject: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 16, 2010 7:50 PM
To: Ratte, Kathryn D.
Subject: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 16, 2010 7:55 PM
To: Ratte, Kathryn D.
Subject: Google WiFi - (b)(3):21(f)

Katie - I do not have (b)(3):21(f) but will see if I can get them.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 16, 2010 7:48 PM
To: Ratte, Kathryn D.
Subject: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 16, 2010 7:44 PM
To: Ratte, Kathryn D.
Subject: Google WiFi (b)(3):21(f)
Attachments: (b)(3):21(f)

Katie, same as last one but I should have said that I'm not including the Stroz report as attachments since you already have it.

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 16, 2010 7:42 PM
To: Ratte, Kathryn D.
Subject: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

Katie - sending along (b)(3):21(f)
(b)(3):21(f)

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Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Thursday, June 10, 2010 11:09 AM
To: Ratte, Kathryn D.
Subject: Former Prosecutor: Google Wi-Fi Snafu 'Likely' Illegal

http://www.wired.com/threatlevel/2010/06/google-wifi-debacle/

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Thursday, June 10, 2010 10:10 AM
To: Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: google letter

(b)(5)

From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 8:54 PM
To: Eichorn, Mark; Brin, Katherine Race
Subject: RE: google letter

(b)(5)

Both of the points you raise below are good ones – we should incorporate those questions into whatever follow-up we send to the company after the non-public briefing. Thanks!

From: Eichorn, Mark
Sent: Wednesday, June 09, 2010 6:46 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: google letter

(b)(5)

From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 2:04 PM
To: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha

Subject: FW: google letter

Attached is the letter giving Google a heads up that we are having a Hill briefing on Friday. OGC confirmed that we are required to do this and suggested that the letter come from Maneesha, so I made the change and signed for Maneesha. I'm going to send this to Al Gidari at 5 unless I hear any objections.

(b)(5)

From: Havens, Kevin
Sent: Wednesday, June 09, 2010 1:36 PM
To: Ratte, Kathryn D.
Subject: google letter

Kevin Havens
Division of Privacy and Identity Protection
Bureau of Consumer Protection
Federal Trade Commission
601 New Jersey Avenue, N.W.
Washington, DC 20001
P-202-326-2281
F-202-326-3629

Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 09, 2010 10:01 AM
To: Ratte, Kathryn D.
Subject: Google WiFi (b)(3):21(f)
Attachments: (b)(3):21(f)

Katie - here is (b)(3):21 (f) Same confidential treatment please.

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Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 09, 2010 9:44 AM
To: Ratte, Kathryn D.
Subject: (b)(3):21(f)
Attachments: (b)(3):21(f)

Katie, (b)(3):21(f) Here is a copy for your information. As with prior submissions, these are confidential. (b)(3):21(f) (b)(3):21(f) (b)(3):21(f) I'd be happy to bring you up to date on that if you have some time at the end of the week?

Finally, the Stroz report was posted last night on Google's blog so that is no longer being treated as confidential.

We appreciate the informal information gathering process but we also want to be mindful of your regulatory needs and interest. So I am happy to do another visit or call at your convenience. On the civil litigation by the way, one of the parties moved for consolidation of the cases in DC so I may be moving there soon :} I don't know why they didn't pick Hawaii.

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Ratte, Kathryn D.

From: Heyder, Markus B.
Sent: Monday, June 07, 2010 5:08 PM
To: Ratte, Kathryn D.
Subject: FW: Google Wi-Fi (b)(3):21(f)

Katie, here's the rest of question six. Didn't see this last week.

(b)(3):21(f)

From: Heyder, Markus B.
Sent: Friday, June 04, 2010 9:04 AM
To: Ratte, Kathryn D.; Weinman, Yael; Stevenson, Hugh G.
Cc: Mithal, Maneesha
Subject: RE: Google Wi-Fi (b)(3):21(f)

Hi Katie, here's question six for now:

(b)(3):21(f)

More later. Have to get something out the door.

From: Ratte, Kathryn D.
Sent: Thursday, June 03, 2010 5:30 PM
To: Heyder, Markus B.; Weinman, Yael; Stevenson, Hugh G.
Cc: Mithal, Maneesha
Subject: FW: Google Wi-Fi (b)(3):21(f)

The rest of the Google Wi-Fi (b)(3):21(f) fyi. Markus, any help you can provide on the questions in the (b)(3):21(f) would be much appreciated (b)(3):21(f) . Also, we're treating these as confidential, unless (b)(3):21(f) Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@PerkinsCoie.com]
Sent: Wednesday, June 02, 2010 1:59 AM
To: Ratte, Kathryn D.
Subject: Google Wi-Fi (b)(3):21(f)

Hi Katie - thank you for your patience in getting (b)(3):21(f)
(b)(3):21(f)

We have more going out this week and next and I will forward them to you as we get translations.

We also expect the Stroz report will be complete end of this week and released by Monday or Tuesday next. I'll send you a copy as soon as we have it in final.

(b)(3):21(f)

Please let me know if you have any questions.

Thanks, Al

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Ratte, Kathryn D.

From: Soltani, Ashkan
Sent: Monday, June 07, 2010 2:00 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: Google WiFi Report

Read thru this and happy to discuss briefly if you guys want to follow up.

(b)(5)

[redacted]

-a

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 7:05 AM
To: Soltani, Ashkan; Brin, Katherine Race
Subject: FW: Google WiFi Report

We received (b)(3):21(f) [redacted] Ashkan, this looks like something we could use your help on – what's your availability in the next couple of days to review this and have a call with me and Katie? Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@PerkinsCoie.com]
Sent: Sunday, June 06, 2010 8:47 PM
To: Ratte, Kathryn D.
Subject: Google WiFi Report

Katie, as promised, enclosed please find a copy of (b)(3):21(f) [redacted]

(b)(3):21(f)

Thanks, Al

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Ratte, Kathryn D.

From: Brin, Katherine Race

Sent: Friday, June 04, 2010 2:31 PM

To: Ratte, Kathryn D.

Subject: Google wants to patent technology used to 'snoop' Wi-Fi networks

http://www.computerworld.com/s/article/9177634/Google_wants_to_patent_technology_used_to_snoop_Wi_Fi_ne
source=rss_news

(b)(5)

Ratte, Kathryn D.

From: Christina Speck [Cspeck@ntia.doc.gov]

Sent: Thursday, June 03, 2010 7:00 PM

To: Christina Speck; Fiona Alexander; James McConnaughey; Christopher Hemmerlein; 'Kanarek, Deborah J'; 'David De Falco'; 'Val Huston'; 'John Fay'; 'Lippeatt, J David'; 'Donald Calvert'; Stevenson, Hugh G.; 'JMCHALE@USTR.eop.gov'; Ratte, Kathryn D.; 'sfeuer@fcc.gov'; Weinman, Yael; Fiona Alexander; Rochelle Cohen; James McConnaughey; IppolitoP@state.gov; 'Padraig O'Connor'; 'Escobar, Ramon J'; John Fay; Val Huston

Cc: David De Falco

Subject: FT/ Google to hand over data to European regulators

Google to hand over intercepted data

By Maija Palmer and Lionel Barber in London
Published: June 3 2010 23:04 | Last updated: June 3 2010 23:04

Google will begin handing over to European regulators the rogue data it intercepted from private WiFi internet connections within the next two days, in an effort to defuse growing controversy over its latest privacy blunder.

Eric Schmidt, chief executive, said the world's largest internet company would hand over information initially to the German, French, Spanish and Italian data protection authorities, which are considering a criminal investigation into the practice. Google faced a stand-off with Hamburg privacy authorities last week over whether it would be

The company will also publish the results of an external audit into the practice, in which cars photographing streets for Google's Street View service ended up also collecting snippets of personal information from unsecured WiFi networks.

Mr Schmidt admitted he could not rule out the possibility that personal data such as bank account details were among the data collected.

"We screwed up. Let's be very clear about that," Mr Schmidt said. "If you are honest about your mistakes it is the best defence for it not happening again."

Mr Schmidt also said the company would conduct an internal review into all its privacy practices, checking all of the codes related to collecting data. It will reveal the results of this within the next month.

There is also a disciplinary procedure under way against the male software engineer responsible for the rogue code, which was in "clear violation" of Google's rules.

Mr Schmidt believes transparency will help it regain user trust. However, he was adamant that the company culture, which allows engineers freedom to create new products and services, would not change.

The "20 per cent time" during which employees are allowed to pursue their own projects, for example, will remain in place and there is no plan for an overall audit of these schemes.

"It would be a terrible thing to put a chilling effect on creativity," Mr Schmidt said.

He said it was not clear whether the rogue Street View code, which one of its engineers devised while driving around the Stanford University campus checking for WiFi connections, was a "20 per cent time" project. He is also convinced that Google's mission to index all the world's information is valid.

"You are better off having a company operating on a set of principles, that you can at least model, than a political process, which clearly does not produce rational outcomes," Mr Schmidt said.

Google also faced privacy concerns over the launch of its Buzz social networking service earlier this year, and over a recent hacker attack on its computer systems. However, Mr Schmidt said data retained by Google was more secure than that kept by individuals and companies on their own computer systems.

Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Thursday, June 03, 2010 2:59 AM
To: Ratte, Kathryn D.
Subject: (b)(3):21(f)
Attachments:

Here is the (b)(3):21(f) I think there will be a few more as the week wears on.

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Ratte, Kathryn D.

From: Clark, Donald S.
Sent: Thursday, May 27, 2010 3:47 PM
To: Bumpus, Jeanne; Bailey, Judith; Vandecar, Kim; Simons, Claudia A.; Rosen, David; Runco, Philip; Ratte, Kathryn D.
Cc: Thompson, Patricia V.; Taylor, Susan; Cornish, Alexis (Contractor); Matties, Deborah J.
Subject: Signed Copies of Letters To Markey and Barton Granting Nonpublic Briefing Re Google WiFi

Attachments: Markey & Barton.PDF

Markey & Barton.PDF (142 KB)

veryone, I've attached scanned copies of these letters, which the Commission has now approved, and Pat has taken the signed originals to OCR (thanks, Pat!); please let us know if you need anything else, and good luck with the briefing!

Don

Ratte, Kathryn D.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Thursday, May 27, 2010 11:24 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi data collection

Thank you both for the time. (b)(3):21(f) and get them off to you hopefully before the holiday weekend but if not, first of the week. Everything else is on track but I will check in with you regularly to let you know if there are developments or changes, (b)(3):21(f) Have a great long weekend.

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From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Wednesday, May 26, 2010 1:51 PM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: Google Wi-Fi data collection

Dear Al:

Thanks very much for coming in yesterday to brief us on the Google Wi-Fi data collection – it was extremely helpful. I'm writing to confirm that you will send us a copy of (b)(3):21(f) (b)(3):21(f) sometime in the next week or so. Please let us know if the timing on that changes dramatically. I also understand that the company is currently considering whether (b)(3):21(f) and that you'll keep us posted on that decision.

(b)(3):21(f)

Thanks again for your cooperation.

Best regards,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580

Phone: (202) 326-3514
Fax: (202) 326-3768

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Ratte, Kathryn D.

From: Mithal, Maneesha
Sent: Thursday, May 27, 2010 9:41 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Eichorn, Mark
Subject: FW: Google Discussions

-----Original Message-----
From: Lynch, John [mailto:(b)(6)
Sent: Thursday, May 27, 2010 9:38 AM
To: Mithal, Maneesha
Cc: Klumb, Eric
Subject: Google Discussions

Dear Ms. Mithal,

(b)(5)

Thank you very much,

John

--
John T. Lynch, Jr., Deputy Chief for Computer Crime
Computer Crime and Intellectual Property Section
Criminal Division, U.S. Department of Justice
phone:+1-202-305-8732|email:(b)(6)

Ratte, Kathryn D.

From: Soltani, Ashkan
Sent: Tuesday, May 25, 2010 2:21 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: RE: Google Wi-Fi meeting

Hey Katie

(b)(5)

-a

From: Brin, Katherine Race
Sent: Tuesday, May 25, 2010 2:00 PM
To: Soltani, Ashkan; Ratte, Kathryn D.
Subject: RE: Google Wi-Fi meeting

(b)(5)

From: Soltani, Ashkan
Sent: Tuesday, May 25, 2010 12:57 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi meeting

Darn I was out yesterday and only seeing this now.

How'd it go? Anything you want me to look at/discuss?
-a

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 5:29 PM
To: Soltani, Ashkan
Subject: FW: Google Wi-Fi meeting
When: Tuesday, May 25, 2010 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: 8201

Katie and I are meeting with Google to get a briefing on the Wi-Fi data collection. (b)(5)
(b)(5) Are you available at 11 tomorrow by phone? If so, what #?

Ratte, Kathryn D.

From: Mithal, Maneesha
Sent: Monday, May 24, 2010 12:23 PM
To: Ratte, Kathryn D.; Eichorn, Mark; Brin, Katherine Race
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi
Attachments: Letter - Request for Non-Public Briefing - Google - Signed - 5-24-10.pdf

---

From: Vandecar, Kim
Sent: Monday, May 24, 2010 12:09 PM
To: Mithal, Maneesha; Rich, Jessica L.; Clark, Donald S.; Taylor, Susan; Olsen, Christopher; Dawson, Rachel Miller; Harrison, Lisa M.; Sannappa, Nithan; Kaufman, Daniel; Matties, Deborah J.; DeLorme, Christine L.
Cc: Bumpus, Jeanne; Simons, Claudia A.
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Staff would like the briefing Friday morning (as early as possible if that day works at all). If not Friday, Tuesday the 1st will likely work.

Ratte, Kathryn D.

From: Eichorn, Mark

Sent: Friday, May 21, 2010 12:02 PM

To: Mithal, Maneesha; Brin, Katherine Race; Ratte, Kathryn D.

Subject: http://www.advfn.com/news_FTCs-Leibowitz-Says-Commission-Will-Look-At-Google-WiFi-Data-Collection_42916372.html

Ratte, Kathryn D.

From: Mithal, Maneesha
Sent: Thursday, May 20, 2010 8:53 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: FW: Wire Stories from today's Approps Hearings + WSJ story "Bloggers Aim Posts at Antitrust Investigators"

From: Rich, Jessica L.
Sent: Thursday, May 20, 2010 6:31 PM
To: Mithal, Maneesha; Matz, Bethany E.
Subject: Fw: Wire Stories from today's Approps Hearings + WSJ story "Bloggers Aim Posts at Antitrust Investigators"

David's quote is pretty funny in light of what he told us tonight!
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission

From: Prewett, Cecelia
To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel
Sent: Thu May 20 18:23:22 2010
Subject: Wire Stories from today's Approps Hearings + WSJ story "Bloggers Aim Posts at Antitrust Investigators"

Dow Jones: FTC Will Look At Google WiFi Data Collection (Leibowitz quoted)
Bloomberg: FTC Says It Will Take Look at Google Data Collection (Leibowitz and Vladeck quoted)
WSJ: Bloggers Aim Posts at Antitrust Investigators (Prewett quoted)

FTC Will Look At Google WiFi Data Collection

By Brent Kendall

Of DOW JONES NEWSWIRES

WASHINGTON (Dow Jones)--Federal Trade Commission Chairman Jon Leibowitz told U.S. lawmakers Thursday the agency will look into Google Inc.'s (GOOG) harvesting of data over wireless networks through its Street View service.

"We're going to take a very close look at this," Leibowitz said in response to questioning during a Senate Appropriations subcommittee hearing on the agency's budget.

Leibowitz said Google has already held discussions with the agency's staff on the issue.

He stopped short of confirming an official investigation, saying the agency does not confirm probes unless the investigation has been acknowledged by the company.

A Google spokesperson said: "We are working with the relevant authorities to answer their questions and concerns."

Google said last week it had discovered that the roving cars it uses to create its online mapping services were inadvertently gathering data from people's website use over unsecured wireless networks.

Google said it would stop collecting Wi-Fi data and approach regulators about how to dispose of the data it had collected, which Google said it never used.

European authorities are also investigating the matter.

Google uncovered the mistake while responding to a German data-protection agency's request to audit its Wi-Fi data.

FTC Says It Will Take Look at Google Data Collection (Update1)
2010-05-20 21:21:52.721 GMT

By Jeff Bliss

May 20 (Bloomberg) -- The U.S. Federal Trade Commission will take a "very, very close look" at Google Inc.'s data gathering practices, agency Chairman Jon Leibowitz said.

Google Inc.'s admission last week that it unintentionally collected information from unsecured wireless networks "is just one example of why consumers have very serious privacy concerns," he told a Senate appropriations subcommittee in Washington today.

FTC officials on May 17 first talked to Mountain View, California-based Google about the data gathering, said David Vladeck, director of the agency's Bureau of Consumer Protection.

"We've been in frequent contact," Vladeck said in an interview after the hearing.

Concerns about Google, owner of the world's most popular Internet search engine, have grown as Spain, France, Italy and the Czech Republic joined Germany in investigating how the company collected information in its Street View mapping service.

Google has said the cars used to photograph roadsides for Street View inadvertently recorded data from Wi-Fi networks.

WSJ: Bloggers Aim Posts at Antitrust Investigators
MAY 20, 2010, 6:00 P.M. ET
By THOMAS CATAN

WASHINGTON—U.S. trustbusters have set their sights on Silicon Valley, with a growing number of investigations targeting possible anticompetitive behavior by technology companies. Now they are having to deal with an unexpected consequence: Potential witnesses are using blogs to blurt out details of an inquiry as it is being conducted.

Many of the technology-savvy people contacted by Federal Trade Commission staff investigating Google Inc.'s $750 million deal to buy mobile advertising company AdMob Inc. have written online about the conversations. Some of their blog posts discuss the kinds of questions the FTC is asking, the apparent attitudes of agency investigators and their level of familiarity with online advertising.

"There is no way the FTC knows enough to support a decision to block the deal," wrote a blogger from Wertago, a mobile nightlife application. The post was entitled "Ignorance and Hubris at the FTC."

Though there is no written rule against disclosing the details of such investigations, FTC staffers typically tell potential witnesses that such inquiries are nonpublic.

"It is highly unusual in every respect," says Eric Goldman, director of the High Tech Law institute at Santa Clara University in California. "Historically, whenever the FTC was doing its homework, it was able to keep it behind the veil. We don't normally get to see [an investigation] developing in real time."

Google and AdMob certainly hope the online chatter will help their deal get approved. Both Google and AdMob Chief Executive Omar Hamoui have encouraged some mobile-software companies to blog about their experiences with the FTC and say why they support the deal, according to people familiar with the matter. Google points to the blogs as evidence that those who best know the sector support the acquisition.

A spokeswoman for AdMob said the company has heard "positive feedback" about the deal from the applications developers with whom it works, and has encouraged them to express their views. A spokesman for Google said: "We've been talking to app developers about the deal since November and have encouraged them to share their perspectives as players in the mobile industry."

At least some of the FTC staff are inclined to block the deal, according to people familiar with the matter. However, the five FTC commissioners must vote to approve any legal challenge. A final decision is expected as soon as Friday.

Many of those who have spoken with FTC investigators say they appear to be building a case that Google's purchase of AdMob would harm mobile-applications developers. Under that theory, the companies that create programs that appear on the iPhone and other handheld devices would have fewer mobile ad networks to choose from when trying to make their work pay.

If that is the FTC's case, then the fact that so many developers are publicly opposing a challenge to the deal could pose a problem for the agency. What's more, many of the bloggers have been unflattering about the FTC investigators with whom they have spoken, something Google could use in its defense.

"To me, the problem was that the FTC seemed to be determined to stop the deal from the beginning," wrote a staff member of Naan Studio, a mobile-applications developer.

Greg Stirling, an industry analyst for Search Engine Land, blogged that he "was really not supposed to" talk about his FTC interaction. But he went on to describe what he told an agency attorney in two conversations stretching over three hours, including his contention that the AdMob deal wouldn't cause advertising prices to rise even if it made Google a stronger competitor.

Some former FTC officials caution that people contacted by the agency don't necessarily have an accurate view of where an investigation is headed. Antitrust investigations can have multiple phases that are hard for outsiders to discern, including early stages where facts are gathered and later ones when lawyers try out theories they could bring up in court.

Cecelia Prewett, director of the FTC's office of public affairs, declined to comment on the specific investigation or discussions with potential witnesses. "What I can tell you," she said, "is that, as part of any investigation the FTC does, we ask probing questions to test the facts and potential biases."

Such noisy public feedback—even before the FTC has taken any action—is potentially uncomfortable for investigative agencies. Might it also affect the decision whether to act?

"Absolutely," said Jeffrey Schmidt, a former head of the FTC's competition bureau, now a partner at Linklaters LLP. When making a case against a merger, FTC lawyers like to point to customers that would be adversely affected, he said. The negative reviews from bloggers could suggest the agency would have a hard time producing sympathetic witnesses in court.

"If those blogs are representative of who the FTC is talking to, then it raises a real challenge for the FTC in communicating their story to the court," Mr. Schmidt said.

Not everyone the FTC has spoken to supports Google's deal. Simon Buckingham, CEO of applications developer Appitalism Inc., says it will hurt his business and allow the search giant to extend its dominance into mobile advertising. Of the FTC staff with whom he spoke, he said: "They've done an excellent job."

Though it has been technically possible for potential witnesses to disclose such interactions before, blogs have allowed them to directly publish detailed, unfiltered accounts to large audiences. Now the torrent of information

circulating online about a confidential investigation has triggered a debate about whether new rules are needed.

Mr. Goldman said he would prefer the FTC to have a safety zone to do its homework in private. But others suggest government agencies will just have to adapt as their actions generate discussion online. "I think it's better to just let it all get out there and if the FTC's case is sound enough, they'll be able to come up with answers to the folks that are blogging against it," Mr. Schmidt said.

—Jessica E. Vascellaro contributed to this article.

Ratte, Kathryn D.

From: Rich, Jessica L.
Sent: Tuesday, May 18, 2010 2:25 PM
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Subject: RE: Google streetview

The plot thickens.

From: Ratte, Kathryn D.
Sent: Tuesday, May 18, 2010 2:18 PM
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Subject: FW: Google streetview

(b)(5) [redacted]

Also, check out Marc Rotenberg's status update from Facebook:
Marc Rotenberg Just went "wardriving" with Brian Todd and CNN camera crew around Dupont Circle. iPad is not bad for locating WPAs. Segment about Google Street View and privacy debacle should be on around 5 pm.

I guess I'll be watching CNN at 5 pm!

From: Weinman, Yael
Sent: Tuesday, May 18, 2010 2:14 PM
To: Ratte, Kathryn D.
Subject: FW: Google streetview

see request - (b)(5) [redacted]

From: Weinman, Yael
Sent: Tuesday, May 18, 2010 2:10 PM
To: 'RAYNAL Florence'
Subject: RE: Google streetview

Let's plan a phone call to discuss. Are you free on Thursday afternoon to discuss?

From: RAYNAL Florence [mailto:fraynal@cnil.fr]
Sent: Tuesday, May 18, 2010 12:57 PM
To: Weinman, Yael
Subject: Google streetview

Dear Yael,

Just checking with you if you have plans to analyse and/or investigate Google streetview on the use of traffic data?

Thanks in advance for your response,

Best regards

Florence

_____ Information provenant d'ESET NOD32 Antivirus, version de la base des signatures de virus 5124 (20100518) _____

Le message a été vérifié par ESET NOD32 Antivirus.

http://www.eset.com

Ratte, Kathryn D.

From: Mithal, Maneesha
Sent: Friday, May 14, 2010 4:55 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Subject: FW: Google WIFI Blogpost

From: Jane Horvath [mailto:janehorvath@google.com]
Sent: Friday, May 14, 2010 4:50 PM
To: Rich, Jessica L.; Mithal, Maneesha
Cc: Pablo Chavez
Subject: Google WIFI Blogpost

Maneesha,

Thanks so much for speaking with Pablo and me earlier today on the Google WIFI issue. Here is the link to (http://googleblog.blogspot.com/) and content of the blog post that we just posted:

WiFi data collection: An update

5/14/2010 01:44:00 PM

Nine days ago the data protection authority (DPA) in Hamburg, Germany asked to audit the WiFi data that our Street View cars collect for use in location-based products like Google Maps for mobile, which enables people to find local restaurants or get directions. His request prompted us to re-examine everything we have been collecting, and during our review we discovered that a statement made in a blog post on April 27 was incorrect.

In that blog post, and in a technical note sent to data protection authorities the same day, we said that while Google did collect publicly broadcast SSID information (the WiFi network name) and MAC addresses (the unique number given to a device like a WiFi router) using Street View cars, we did not collect payload data (information sent over the network). But it's now clear that we have been mistakenly collecting samples of payload data from open (i.e. non-password-protected) WiFi networks, even though we never used that data in any Google products.

However, we will typically have collected only fragments of payload data because: our cars are on the move; someone would need to be using the network as a car passed by; and our in-car WiFi equipment automatically changes channels roughly five times a second. In addition, we did not collect information traveling over secure, password-protected WiFi networks.

So how did this happen? Quite simply, it was a mistake. In 2006 an engineer working on an experimental WiFi project wrote a piece of code that sampled all categories of publicly broadcast WiFi data. A year later, when our mobile team started a project to collect basic WiFi network data like SSID information and MAC addresses using Google's Street View cars, they included that code in their software—although the project leaders did not want, and had no intention of using, payload data.

As soon as we became aware of this problem, we grounded our Street View cars and segregated the data on our network, which we then disconnected to make it inaccessible. We want to delete this data as soon as possible, and are currently reaching out to regulators in the relevant countries about how to quickly dispose of it.

Maintaining people's trust is crucial to everything we do, and in this case we fell short. So we will be:

- Asking a third party to review the software at issue, how it worked and what data it gathered, as well as to confirm that we deleted the data appropriately; and

- Internally reviewing our procedures to ensure that our controls are sufficiently robust to address these kinds of problems in the future.

In addition, given the concerns raised, we have decided that it's best to stop our Street View cars collecting WiFi network data entirely.

This incident highlights just how publicly accessible open, non-password-protected WiFi networks are today. Earlier this year, we encrypted Gmail for all our users, and next week we will start offering an encrypted version of Google Search. For other services users can check that pages are encrypted by looking to see whether the URL begins with "https", rather than just "http"; browsers will generally show a lock icon when the connection is secure. For more information about how to password-protect your network, read this.

The engineering team at Google works hard to earn your trust—and we are acutely aware that we failed badly here. We are profoundly sorry for this error and are determined to learn all the lessons we can from our mistake.

Posted by Alan Eustace, Senior VP, Engineering & Research

If you have any questions, please feel free to call Pablo or me on our cell phones. Pablo's cell number is 1-650-703-0850 and mine is 703-282-1213.

Jane Horvath
Global Privacy Counsel
Google
202-346-1294 (Direct)
703-282-1213 (Mobile) NEW NUMBER
202-346-1101 (fax)

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Monday, May 10, 2010 2:17 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Google Responds to DPAs

http://www.scribd.com/full/31056661?access_key=key-np9r7ignhiwjhw2x2i2

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Berger, Laura
Sent: Friday, April 30, 2010 9:17 AM
To: Ratte, Kathryn D.; Olsen, Christopher; Mohapatra, Manas
Subject: FW: http://www.nytimes.com/2010/04/30/technology/30google.html?ref=world

(b)(5)

Subject: http://www.nytimes.com/2010/04/30/technology/30google.html?ref=world

New Questions Over Google's Street View in Germany

By KEVIN J. O'BRIEN

Published: April 29, 2010

BERLIN — Google's plan to offer Street View photo mapping in Germany, which has bumped up against the country's strict privacy laws, has come in for renewed criticism after regulators learned that the company, a search engine giant, was also archiving the locations of household wireless networks.

Google's Street View technology has been accepted in countries like Britain and France, but has encountered greater resistance in Germany and Switzerland, where data privacy laws are stricter than in the rest of Europe or in the United States.

German data protection officials had initially questioned the legality of Street View but dropped their objections last July after Google agreed to hide details of faces, license plates and house numbersthrough pixilation, and to give citizens the option of removing their property entirely from the 360-degree photo archive. Since then, hundreds have made such requests.

Google intends to activate the service in Germany by the end of the year.

But the controversy resurfaced last week, when data protection regulators in several German states said they were surprised to learn that Google was also recording the location of wireless routers with its roving cameras and antennas.

Routers for W.L.A.N.'s, or wireless local area networks, provide wireless Internet in homes and businesses. Each broadcasts a unique identification number, a so-called MAC address, and a device name chosen by its owner.

Germany's data protection administrator, Peter Schaar, asked Google to end the practice immediately. But Google has continued to collect the data.

Kay Overbeck, a Google spokesman in Hamburg, said W.L.A.N. data were in the public domain in Germany. "What we are doing is totally legal and is being done by other companies around the world and in Germany," he said.

Google has compiled similar archives around the world, Mr. Overbeck said, and has never made a secret of its project. Other organizations routinely collate such information, like Skyhook in the United States and Fraunhofer Institute in Germany, he said.

The project is designed to promote services like location-based advertising for mobile phones, which can sometime be pinpointed via a W.L.A.N. network even if they lack a GPS satellite receiver. Google has no plans to publish its archive or to link W.L.A.N. devices to individual users, Mr. Overbeck said.

"We did not mention the W.L.A.N. project during our discussions with data protection officials because it is not related to Street View," Mr. Overbeck said.

But some officials say they feel they were misled.

"The question is what will Google do with this information?" said Johannes Caspar, the head of data protection in Hamburg, the city-state where Google has its German headquarters. "How are they going to use it?" He added, "That is what we want to find out."

Mr. Caspar, who is leading the German government's discussions with Google, said he planned to meet with company representatives next week, when he would inspect one of the cars the company uses to transport its mounted cameras. He said it was too early to say whether Google was violating any regulations or whether any fines or penalties could be levied.

Henrik Wild, the owner and managing director of Sightwalk, a competitor to Street View, based in Cologne, that offers similar 360-degree panoramas along major streets in seven German cities, called the dispute "exaggerated."

"There are certainly some political leaders trying to make headlines by going after Google, but in general, many of the people I have dealt with, such as businessmen and younger people, see advantages in this kind of technology," Mr. Wild said.

Still, an elected official in Hamburg, Till Steffen, the senator for justice, said he planned to introduce a bill in the Bundesrat, the upper house of the German Parliament, next Friday that would impose fines of €50,000, or $66,000, against Google for every instance where it had failed to eliminate the data of citizens who had opted out of Street View.

"We cannot rely on the good will of Google," Mr. Steffen said. "For the filming of people and property, we have to have a law that is legally binding."

Mr. Overbeck, the Google spokesman, said the company saw no threat to its business in Germany if the

legislation with the new penalties were to become law.

"He is essentially trying to formalize what we already agreed to do last year with the country's data protection officials," he said.

Google scored a related victory Thursday when Germany's Supreme Court dismissed an artist's claim that Google's photo search function, which had displayed thumbnail photos of some paintings from her Internet site, had violated her copyright. The court ruled that the artist, by voluntarily displaying her paintings on her Internet site, must take responsibility for how they are displayed by search engines

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TECHNOLOGY | MAY 18, 2010

FTC Likely to Examine Google's Wireless Gaffe

By THOMAS CATAN And JESSICA E. VASCELLARO

The U.S. Federal Trade Commission is likely to open a preliminary inquiry into Google Inc.'s disclosure that it accidentally harvested data from unsecured wireless networks for several years, several people familiar with the matter said.

The process is at an embryonic stage and whether the FTC has begun gathering information from other parties about the incident remains unclear. Any resulting investigation wouldn't necessarily lead to action. But if the FTC decides to pursue, it would be the latest federal inquiry to examine the Internet search giant's behavior.

The FTC's Bureau of Competition is currently deciding whether to challenge Google's proposed $750 million takeover of mobile advertising company AdMob Inc. At the same time, the FTC's consumer protection arm is conducting a wide-ranging review of the ways in which online companies collect and employ data about their users' online behavior.

In this case, the Bureau of Consumer Protection is the most likely part of the FTC to be tasked with investigating whether the behavior detailed in Google's latest admission broke any laws.

An FTC spokeswoman declined to comment. A Google spokeswoman also declined to comment beyond the company's blog post Friday.

In it, the company said it had discovered that the roving cars it uses to create its online mapping services were inadvertently gathering data from people's web use over "Wi-Fi" networks without passwords.

Google said it was "reaching out to regulators in the relevant countries about how to quickly dispose" of the data the company had collected. The post also said that Google would ask a third-party to review the software and what data it gathered.

On Monday, Google updated its blog post saying it had started to erase some of the data it said it had inadvertently collected in Ireland after the Irish Data Protection Authority requested it do so. If the FTC opens a formal investigation, some legal experts said they would probably ask that Google preserve the relevant data.

Consumer advocacy group Consumer Watchdog said Monday it was sending the FTC a letter urging the agency to investigate the mishap. John Simpson, the group's consumer advocate, said he was concerned that Google's promise to get third-parties to review the software in question was insufficient.

Other privacy advocates said it was unclear whether the FTC was the correct agency to review the matter and that they would wait to see how European authorities—who have been scrutinizing Google's collection of Wi-Fi information for months—reacted before deciding whether to petition U.S. regulators to intervene.

Write to Thomas Catan at thomas.catan@wsj.com and Jessica E. Vascellaro at jessica.vascellaro@wsj.com

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Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Tuesday, August 31, 2010 5:20 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Google WiFi Sept letter

This looks great. One nit: (b)(5)

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, August 31, 2010 4:41 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: Emailing: Google WiFi Sept letter

Hi Mark. Here is the follow-up letter to Google re WiFi. (b)(5)
(b)(5)

Let me know if you have any thoughts. I'm going to be out of the office on Thursday and Friday, so I'd like to send it tomorrow, if possible. (KR said to go ahead and send it, since she won't be back until Tuesday. I'll sign for her.)

Thanks,
Katie

The message is ready to be sent with the following file or link attachments:

Google WiFi Sept letter

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Wednesday, August 25, 2010 11:14 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Re: WiFi data collection

Sounds good.

Duplicate

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Tuesday, August 10, 2010 9:36 AM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: FW: WSJ TECHNOLOGY ALERT: What They Know -- Google Agonizes on Privacy as Ad World Vaults Ahead

---

From: WSJ.com Editors[SMTP:ACCESS@INTERACTIVE.WSJ.COM]
Sent: Monday, August 09, 2010 8:22:30 PM
To: Young, June
Subject: WSJ TECHNOLOGY ALERT: What They Know -- Google Agonizes on Privacy as Ad World Vaults Ahead
Auto forwarded by a Rule

_____

Technology Alert
from The Wall Street Journal

A confidential, seven-page Google "vision statement" shows the information-age giant in a deep round of soul-searching over a basic question: How far should it go in profiting from its crown jewels -- the vast trove of data it possesses about people's activities?

Along with interviews with more than a dozen current and former employees, the vision statement offers a candid, introspective look at Google's fight to remain at the vanguard of the information economy.

http://online.wsj.com/article/SB10001424052748703309704575413553851854026.html?mod=djemalertTECH

_____

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Corrigan, Sarah E.

From: Eichorn, Mark

Sent: Tuesday, August 03, 2010 5:27 PM

To: Ratte, Kathryn D.; Brin, Katherine Race

Subject: results are in from the UK as to what's in the payload...

Authorities in the U.K.'s Information Commissioner's Office say that Google gathered only "fragments of content" and not "meaningful personal details that could be linked to an identifiable person" when its Street View cars collected payload data from unsecured WiFi networks.

"On the basis of the samples we saw we are satisfied so far that it is unlikely that Google will have captured significant amounts of personal data," the office said in a statement. "There is also no evidence as yet that the data captured by Google has caused or could cause any individual detriment."

The U.K. authorities say they only saw samples of information gathered in the U.K., and can't reach any conclusions about whether Google collected more extensive data elsewhere.

http://www.mediapost.com/publications/?fa=Articles.showArticle&art_aid=132927

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Thursday, July 08, 2010 5:07 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Google WiFi follow up questions 7.8.10

I've reviewed and it looks great -- nothing substantive at all, just one typo (need "the" before United States in q. 3). Thanks!

Duplicate

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Thursday, July 08, 2010 3:24 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: Emailing: Google WiFi follow up questions 7.8.10

Yes, thanks.

(b)(5)

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Tuesday, June 29, 2010 5:41 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: Blog post relating to the collection of MAC addresses by Google wifi

http://www.identityblog.com/

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Friday, June 25, 2010 11:30 AM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: wifi

Good, thanks.

(b)(5)

Corrigan, Sarah E.

From: Berger, Laura
Sent: Tuesday, August 24, 2010 5:18 PM
To: Wernikoff, Steven M.; Brin, Katherine Race
Cc: Poss, Patricia H.; Olsen, Christopher; Ratte, Kathryn D.; Mohapatra, Manas
Subject: RE: Google Wi-Fi Network Info Gathering

Hi Steve,

Thanks for your message. I am cc'ing a couple of DPIP's google mavens, to see if they are looking for more information about use of wireless networks to provide location-based services, such as GPS.

Laura

From: Wernikoff, Steven M.
Sent: Tuesday, August 24, 2010 4:11 PM
To: Brin, Katherine Race; Berger, Laura
Cc: Poss, Patricia H.
Subject: Google Wi-Fi Network Info Gathering

Hi guys:

I just talked to a tech reporter from IDG, Bob McMillan.

He was asking me if I was aware of an information gathering system that Google has in place (and maybe other providers use too) to map location to obtaining information about wireless networks (e.g., MAC addresses). The wireless network information is obtained by crowd sourcing – in other words, individuals who use Google products (like Android phones, etc.) gather the wireless network information that exists and funnels the information back to Google (the Google product users likely don't know that they are gathering the information). Google then apparently uses that information to augment its GPS system, etc. It appears that in densely populated areas the wireless network information is more useful than GPS systems to identify locations. This is sort of the like the Streetview issue that was publicly disclosed but, to the reporters knowledge, this more widespread information gathering has never been disclosed and is pretty under the radar.

The reporter is trying to figure out whether this on anybody's radar screen. I gather that he recently called a number of the prominent privacy orgs and this was news to them. He is curious whether anyone at the FTC would like more information about what he is finding, or would like to speak about this off or on the record. Please let me know if you want to talk to him and if you want me to provide you with his information. If you want to talk to me about it, I can be reached at (b)(6) Sounds like he is going to a run a story on this pretty soon.

/steve

(b)(5)

From: Christina Speck [mailto:Cspeck@ntia.doc.gov]
Sent: Thursday, June 03, 2010 7:00 PM
To: Christina Speck; Fiona Alexander; James McConnaughey; Christopher Hemmerlein; 'Kanarek, Deborah J'; 'David De Falco'; 'Val Huston'; 'John Fay'; 'Lippeatt, J David'; 'Donald Calvert'; Stevenson, Hugh G.; 'JMCHALE@USTR.eop.gov'; Ratte, Kathryn D.; 'sfeuer@fcc.gov'; Weinman, Yael; Fiona Alexander; Rochelle Cohen; James McConnaughey; IppolitoP@state.gov; 'Padraig O'Connor'; 'Escobar, Ramon J'; John Fay; Val Huston
Cc: David De Falco
Subject: FT/ Google to hand over data to European regulators

Google to hand over intercepted data

By Maija Palmer and Lionel Barber in London
Published: June 3 2010 23:04 | Last updated: June 3 2010 23:04

Google will begin handing over to European regulators the rogue data it intercepted from private WiFi internet connections within the next two days, in an effort to defuse growing controversy over its latest privacy blunder.

Eric Schmidt, chief executive, said the world's largest internet company would hand over information initially to the German, French, Spanish and Italian data protection authorities, which

are considering a criminal investigation into the practice. Google faced a stand-off with Hamburg privacy authorities last week over whether it would be

The company will also publish the results of an external audit into the practice, in which cars photographing streets for Google's Street View service ended up also collecting snippets of personal information from unsecured WiFi networks.

Mr Schmidt admitted he could not rule out the possibility that personal data such as bank account details were among the data collected.

"We screwed up. Let's be very clear about that," Mr Schmidt said. "If you are honest about your mistakes it is the best defence for it not happening again."

Mr Schmidt also said the company would conduct an internal review into all its privacy practices, checking all of the codes related to collecting data. It will reveal the results of this within the next month.

There is also a disciplinary procedure under way against the male software engineer responsible for the rogue code, which was in "clear violation" of Google's rules.

Mr Schmidt believes transparency will help it regain user trust. However, he was adamant that the company culture, which allows engineers freedom to create new products and services, would not change.

The "20 per cent time" during which employees are allowed to pursue their own projects, for example, will remain in place and there is no plan for an overall audit of these schemes.

"It would be a terrible thing to put a chilling effect on creativity," Mr Schmidt said.

He said it was not clear whether the rogue Street View code, which one of its engineers devised while driving around the Stanford University campus checking for WiFi connections, was a "20 per cent time" project. He is also convinced that Google's mission to index all the world's information is valid.

"You are better off having a company operating on a set of principles, that you can at least model, than a political process, which clearly does not produce rational outcomes," Mr Schmidt said.

Google also faced privacy concerns over the launch of its Buzz social networking service earlier this year, and over a recent hacker attack on its computer systems. However, Mr Schmidt said data retained by Google was more secure than that kept by individuals and companies on their own computer systems.

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Friday, May 28, 2010 2:22 PM
To: Brin, Katherine Race
Subject: RE: Oregon Judge Slaps Google With Restraining Order Over Private Wifi Data

What will they do with it?!

From: Brin, Katherine Race
Sent: Friday, May 28, 2010 1:51 PM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha
Cc: Olsen, Christopher
Subject: Oregon Judge Slaps Google With Restraining Order Over Private Wifi Data

(b)(5) It has ordered Google to turn over the WiFi data.

http://www.sfgate.com/cgi-bin/article.cgi?f=/g/a/2010/05/27/businessinsider-oregon-judge-slaps-google-with-restraining-order-over-private-wifi-data-2010-5.DTL

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Thursday, May 27, 2010 12:02 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Mithal, Maneesha
Subject: Re: Wifi

Yes, excellent job! 1pm works for me.

From: Mithal, Maneesha
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Sent: Wed May 26 20:41:36 2010
Subject: Wifi

(b)(5)

Can we huddle at 1 to preview what we'll say to David?

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Wednesday, May 26, 2010 11:26 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Re: Google meeting

No.

From: Ratte, Kathryn D.
To: Eichorn, Mark
Cc: Brin, Katherine Race
Sent: Wed May 26 13:31:15 2010
Subject: RE: Google meeting

Any news on the Hill briefing that you know of?

From: Eichorn, Mark
Sent: Wednesday, May 26, 2010 1:26 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Re: Google meeting

Thanks.

From: Ratte, Kathryn D.
To: Eichorn, Mark; Mithal, Maneesha
Cc: Soltani, Ashkan; Brin, Katherine Race
Sent: Wed May 26 09:13:58 2010
Subject: Google meeting

(b)(5)

Keep us posted on the status of the congressional briefing next week. Katie is putting together notes from the meeting that will serve as a good outline for that briefing.

Thanks! Katie X2

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission

600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Eichorn, Mark

Sent: Monday, May 24, 2010 3:38 PM

To: Harrison, Lisa M.; Dawson, Rachel Miller

Cc: Brin, Katherine Race; Ratte, Kathryn D.

Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Attachments: Energy and Commerce Non-Public Briefing on Google WiFi memo 05.24.10.wpd; Energy and Commerce non public briefing Chairman letter.wpd

Here is a draft memo and letter for the non-public briefing on Google Wifi. Please review and, if OK, we'll pass along to the Bureau. Thanks.

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Monday, May 24, 2010 12:12 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Mithal, Maneesha
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Friday am works for me, Tuesday does not

From: Olsen, Christopher
Sent: Monday, May 24, 2010 12:10 PM
To: Eichorn, Mark; Ratte, Kathryn D.
Cc: Mithal, Maneesha
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Not sure who else should get this . . .

From: Vandecar, Kim
Sent: Monday, May 24, 2010 12:09 PM
To: Mithal, Maneesha; Rich, Jessica L.; Clark, Donald S.; Taylor, Susan; Olsen, Christopher; Dawson, Rachel Miller; Harrison, Lisa M.; Sannappa, Nithan; Kaufman, Daniel; Matties, Deborah J.; DeLorme, Christine L.
Cc: Bumpus, Jeanne; Simons, Claudia A.
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Staff would like the briefing Friday morning (as early as possible if that day works at all). If not Friday, Tuesday the 1st will likely work.

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Monday, May 24, 2010 12:10 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi
Attachments: Letter - Request for Non-Public Briefing - Google - Signed - 5-24-10.pdf

Duplicate

Corrigan, Sarah E.

(b)(5)

From: Mithal, Maneesha
Sent: Thursday, May 20, 2010 12:40 PM
To: Olsen, Christopher; Ratte, Kathryn D.; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: Hot Letter from Reps. Markey and Barton

Good idea.

(b)(5)

From: Ratte, Kathryn D.
Sent: Thursday, May 20, 2010 11:42 AM

(b)(5)

From: Rich, Jessica L.
Sent: Wednesday, May 19, 2010 12:30 PM
To: Mithal, Maneesha; Eichorn, Mark; Ratte, Kathryn D.; Olsen, Christopher
Cc: Kaufman, Daniel
Subject: Fw: Hot Letter from Reps. Markey and Barton

Also, I downloaded everything to Debbie M and Rachel Dawson, both of whom had an interest. Do you want to brief Kim V? I can fill Daniel in tomorrow.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission

From: Rosen, David
To: Bumpus, Jeanne; Bailey, Judith; Vandecar, Kim; Lupovitz, Joni; DeLorme, Christine L.; Matties, Deborah J.; Vladeck, David; Rich, Jessica L.; Kaufman, Daniel; Prewett, Cecelia; Farrell, Claudia B.; Clark, Donald S.; Taylor, Susan; Cornish, Alexis (Contractor); Dawson, Rachel Miller; Runco, Philip
Sent: Wed May 19 12:19:44 2010
Subject: RE: Hot Letter from Reps. Markey and Barton

The previous version lacked the attachment just submitted to us by Energy and Commerce Cmte. staff. Attached please find the complete correspondence (letter w/ attachment).

From: Rosen, David
Sent: Wednesday, May 19, 2010 12:13 PM
To: Bumpus, Jeanne; Bailey, Judith; Vandecar, Kim; Lupovitz, Joni; DeLorme, Christine L.; Matties, Deborah J.; Vladeck, David; Rich, Jessica L.; Kaufman, Daniel; Prewett, Cecelia; Farrell, Claudia B.; Clark, Donald S.; Taylor, Susan; Cornish, Alexis (Contractor); Dawson, Rachel Miller; Runco, Philip
Subject: Hot Letter from Reps. Markey and Barton

Attached please find a hot letter to Chairman Leibowitz from Reps. Ed Markey (D-MA) and Joe Barton (R-TX, Ranking Member of the House Committee on Energy and Commerce)

dated May 19, 2010 concerning Google's recent capturing of consumers' Wi-Fi signals.

David J. Rosen
Office of Congressional Relations
U.S. Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580
(202) 326-3732

Corrigan, Sarah E.

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Wednesday, October 20, 2010 2:59 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: WiFi Update

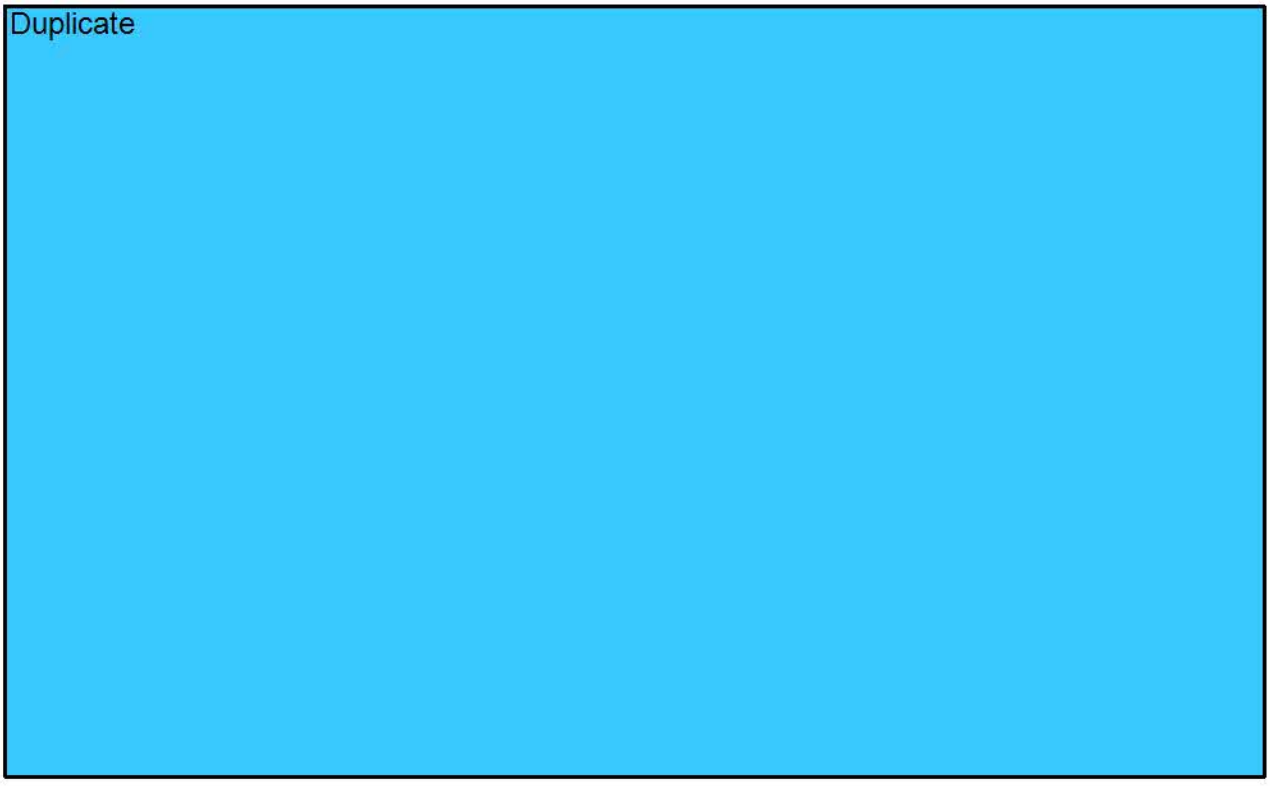
Great - let me see what I can schedule with Google.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Wednesday, October 20, 2010 11:56 AM
To: Gidari, Al (Perkins Coie)
Cc: Ratte, Kathryn D.
Subject: RE: WiFi Update

Al: Thanks for the update. Friday doesn't work for us, but we are free anytime Monday, except for 11-12:30 EST.

Thanks,
Katie



Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Wednesday, September 15, 2010 8:05 PM
To: Brin, Katherine Race
Subject: FW: Google WiFi
Attachments: 2010-09-15 Gidari - Fahringer Letter to K. Ratte.PDF

We should have copied you too - sorry !!!!

Albert Gidari
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Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

Duplicate

Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Wednesday, September 01, 2010 10:54 AM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Follow-up WiFi letter

Thanks Katie – we'll review and get back to you quickly.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Wednesday, September 01, 2010 7:52 AM
To: Gidari, Al (Perkins Coie)
Cc: Ratte, Kathryn D.
Subject: Follow-up WiFi letter

Al: As we discussed last week, attached please find a few follow-up requests regarding Google's collection of WiFi data. Please let us know if you have any questions.

Thanks,
Katie

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

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Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@perkinscoie.com]
Sent: Monday, July 12, 2010 10:56 AM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Google WiFi

Thank you Katie - I received the letter and we'll begin working on a response right away.

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Seattle, WA 98101
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(206) 407-6371 (M)

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Monday, July 12, 2010 7:13 AM
To: Gidari, Al (Perkins Coie)
Cc: Ratte, Kathryn D.
Subject: RE: Google WiFi

Al: Attached please find the letter regarding Google WiFi. Please let us know if you have any questions.

Thanks,
Katie

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Friday, July 09, 2010 1:34 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google WiFi

Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Tuesday, June 15, 2010 1:14 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google WiFi

will do, and (b)(3):21(f)

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Tuesday, June 15, 2010 10:13 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: RE: Google WiFi

Al – thanks for the update. We would appreciate receiving copies of (b)(3):21(f) and also appreciate your attention to our server size limitations!)

Thanks very much,
Katie and Katie

From: Gidari, Al (Perkins Coie) [mailto:AGidari@PerkinsCoie.com]
Sent: Tuesday, June 15, 2010 11:25 AM
To: Ratte, Kathryn D.
Subject: Google WiFi

Hi Katie - we have a number of (b)(3):21(f) since our last courtesy copy to you. They really do not provide any new information, but we are happy to provide you copies, or (b)(3):21(f) (b)(3):21 If copies, I will send them in separate emails to avoid being blocked by your server size limitations.

Let me know. Thanks.

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Perkins Coie LLP
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Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Thursday, June 10, 2010 2:16 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan
Subject: RE: Google Wi-Fi letter

Katie - thank you for the vmail and letter. I was traveling back from east coast but now have sent this on Will Devries and Jane Horvath.

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Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Wednesday, June 09, 2010 2:12 PM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan
Subject: Google Wi-Fi letter

Al:

This is to follow up on my voice mail. We wanted to give you a heads up that we will be conducting a non-public briefing for the House Energy and Commerce committee staff on Friday (pursuant to their request). As the attached letter explains, they have agreed to keep confidential any information you shared with us for which you requested confidential treatment. Please feel free to give us a call if you have any questions or concerns.

Also, thanks for sending (b)(3):21(f) We will let you know about any follow-up information we might need.

Best regards,
Katie and Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Gidari, Al (Perkins Coie) [AGidari@PerkinsCoie.com]
Sent: Wednesday, June 02, 2010 9:37 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi (b)(3):21(f)

your welcome and we will keep them coming. Unfortunately, there will be more to send.

Yes, the Buzz submission will be delivered tomorrow by hand (b)(7)(A)
That should keep you busy for a while :}

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Wednesday, June 02, 2010 5:54 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi (b)(3):21(f)

Al – thanks very much for this information. We will take a look at this and get back to you quickly with any follow-up requests. Also, could you confirm that we're getting the Buzz submission tomorrow? How do you plan to submit it? I assume that it will be the same as for Docs – hand delivery of a hard drive to 601 New Jersey – but please let me know if that's not the case.

Thanks very much,
Katie

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Thursday, November 04, 2010 3:26 PM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha
Subject: NY Times podcast

In case you didn't see (or hear) it, attached is the link to a NY Times podcast about WiFi. The WiFi part starts at 7:17

http://www.nytimes.com/ref/technology/techtalk.html

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kbrin@ftc.gov

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Friday, October 29, 2010 8:39 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: Re: Question for when you return to office

Great - thanks!

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Wednesday, October 27, 2010 5:21 PM
To: Brin, Katherine Race
Cc: Eichorn, Mark; Ratte, Kathryn D.
Subject: Re: Google Wi-fi Petition

Not your fault - you guys did so much last minute stuff to get this out. You're not superhuman and can't be expected to remember everything!

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 1:08 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Rich, Jessica L.
Subject: Fw: Google wi-fi
Attachments: Redline Draft Google wi fi letter 10 25 10.wpd

FYI - I'll send you the final version for your review before it goes out.

From: Kestenbaum, Janis
To: Mithal, Maneesha
Cc: Matties, Deborah J.
Sent: Tue Oct 26 11:39:42 2010
Subject: RE: Google wi-fi

Maneesha,
Please see Commissioner Ramirez's proposed edits in the attached redline.

Thanks,
Janis

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 1:07 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Cc: Rich, Jessica L.
Subject: Fw: Google wi-fi letter
Attachments: Google.pdf

I'll take care of these, but it looks like we have all Comm'rs signed off and will be sending this out today. I'm waiting to hear on timing from Debbie/OPA, so it would be great if you could hold off on calling Al.

From: Delaney, Elizabeth
To: Mithal, Maneesha; Matties, Deborah J.
Sent: Tue Oct 26 12:52:52 2010
Subject: Google wi-fi letter

Hi Maneesha and Debbie,
The Commissioner is fine with David sending out the letter as he sees fit. I have attached a couple of suggestions, which you may or may not want to consider. Thanks!

Beth

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 4:22 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: Re: call with Google's counsel

LOL

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 1:19 PM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Rich, Jessica L.
Subject: draft cover note to the Commission

Do I need to share this with Debbie first?

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 11:51 AM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: RE: Google wi-fi - heads up for Monday

OK – talked to Katie R-B, and I think we're good. (b)(5)
(b)(5) I'll wait a few minutes before I offer this up to the Chairman.

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Sunday, October 24, 2010 10:00 PM
To: Rich, Jessica L.
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark
Subject: Re: Google wi-fi - heads up for Monday

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha

Sent: Saturday, October 23, 2010 9:41 PM

To: Matties, Deborah J.; DeLorme, Christine L.; Prewett, Cecelia; Farrell, Claudia B.; Harrison, Lisa M.; Sannappa, Nithan; Vandecar, Kim

Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark; Rich, Jessica L.; Weinman, Yael

Subject: Google wi-fi - heads up for Monday

Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

Duplicate

Corrigan, Sarah E.

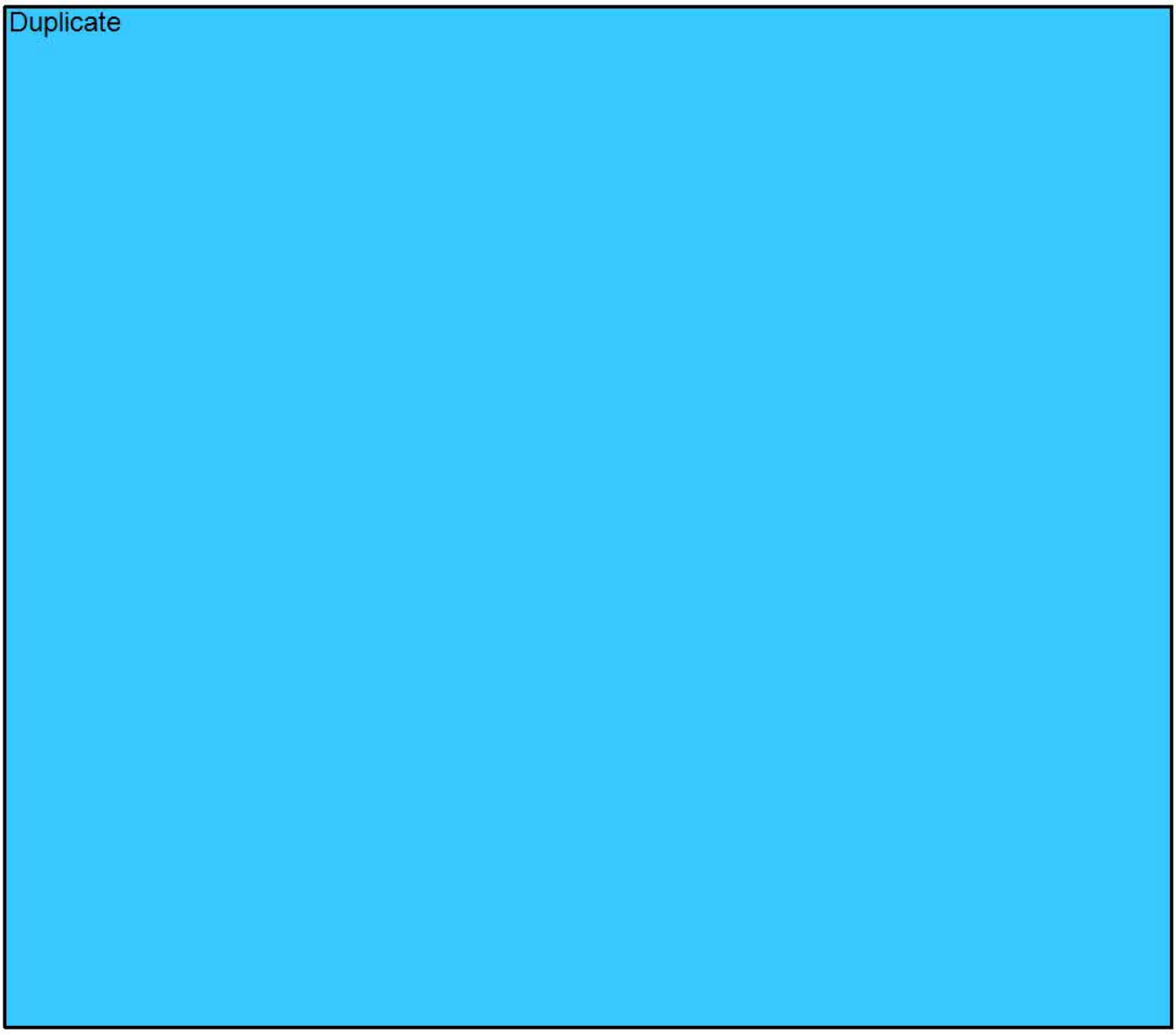
From: Mithal, Maneesha
Sent: Friday, October 22, 2010 9:45 AM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: wifi letter
Attachments: Vladeck Google WiFi letter 10 21 10 Final mm edits.wpd; redline.wpd

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Friday, October 22, 2010 9:01 AM
To: Brin, Katherine Race
Cc: Eichorn, Mark; Ratte, Kathryn D.
Subject: RE: Updated WiFi letter

Looks good – I'll send some edits in a minute.



Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Thursday, October 21, 2010 3:45 PM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: Wifi letter
Attachments: Vladeck Google WiFi letter 10 21 10 mm edits.wpd; redline.wpd

The letter looks terrific! In particular, I thought the last substantive paragraph really sang.

(b)(5)

Thanks for turning this around so quickly and well!

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Wednesday, October 13, 2010 2:09 PM
To: Eichorn, Mark; Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google Buzz update

In the interests of moving things forward, I'll meet with the Katies and brief you. Thanks Mark, and hope you're training is going well!

From: Eichorn, Mark
Sent: Wednesday, October 13, 2010 2:07 PM
To: Mithal, Maneesha; Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Re: Google Buzz update

I'm out at training essentially until Monday, so could we wait until then?

Duplicate

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Wednesday, June 02, 2010 10:40 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: WiFi briefing

I'm at the senior staff retreat Tuesday and Wednesday, so those days don't work.

From: Ratte, Kathryn D.
Sent: Wednesday, June 02, 2010 10:15 AM
To: Brin, Katherine Race; Mithal, Maneesha
Subject: RE: WiFi briefing

Monday afternoon I have a few things, but the rest of the week is clear for me (and my calendar is up to date). Thanks for checking on this! I'm going to come in sooner than 12, so I'll stop by to chat about the submissions when I get in (soonish, maybe 11).

From: Brin, Katherine Race
Sent: Wednesday, June 02, 2010 10:12 AM
To: Mithal, Maneesha; Ratte, Kathryn D.
Subject: WiFi briefing

It looks like the Congressional briefing on Google WiFi will not happen until next week at the earliest. Apparently, most of the staff is out this week during recess. Kim wanted to get an idea of our schedules for next week. Are there days/times that definitely don't work for either of you? (b)(5) so it would be tough for me to do it that day, but the rest of the week works for me.

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Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Mithal, Maneesha

Sent: Thursday, May 27, 2010 1:31 PM

To: Vladeck, David; Rich, Jessica L.; Matz, Bethany E.; Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Kuehn, Rebecca; Olsen, Christopher; Berger, Laura

Subject: FW: biweekly agenda

1) wi-fi – download on Google meeting

Not Responsive

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Thursday, May 27, 2010 12:34 PM
To: Brin, Katherine Race; Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: Staff meeting --

OK - Mark can give the update. Thanks.

-----Original Message-----
From: Brin, Katherine Race
Sent: Thursday, May 27, 2010 12:33 PM
To: Mithal, Maneesha; Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: Staff meeting --

(b)(7)(A) If we end early and can make it to the staff meeting, I'm happy to give an update.

-----Original Message-----
From: Mithal, Maneesha
Sent: Thursday, May 27, 2010 12:31 PM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: FW: Staff meeting --

Can someone do an update on Google Wi-Fi? Katie RB?

-----Original Message-----
From: Kuehn, Rebecca
Sent: Thursday, May 27, 2010 12:23 PM
To: 1154DL
Subject: Staff meeting --

Today, 2:00 pm, conference room B. Hope to see you there!

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Wednesday, May 26, 2010 4:58 PM
To: Brin, Katherine Race; Ratte, Kathryn D.; Eichorn, Mark
Cc: Soltani, Ashkan
Subject: RE: Emailing: Google WiFi meeting notes 5 26 10.kdr edits

All - can you come to our biweekly with David V. tomorrow to download on Google wifi happenings? 3 pm in this building.

-----Original Message-----
From: Brin, Katherine Race
Sent: Wednesday, May 26, 2010 4:57 PM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha
Cc: Soltani, Ashkan
Subject: RE: Emailing: Google WiFi meeting notes 5 26 10.kdr edits

Also, just a reminder that if we plan to disclose confidential information Google provided to us during our meeting yesterday, we will have to consider whether notice to Google about the Congressional briefing is necessary. It is my understanding that there are somewhat formalized procedures about such a notice, e.g., it needs to be in writing, etc.

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 4:44 PM
To: Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race; Soltani, Ashkan
Subject: Emailing: Google WiFi meeting notes 5 26 10.kdr edits

Hi everyone - attached is Katie (RB)'s excellent summary of the meeting we had with Google's outside counsel on the Street View / Wi-Fi data collection incident. (b)(5) (b)(5) Please let us know if you have any questions.

Any word back from OCR or the Bureau on scheduling the Hill briefing? And who exactly will be attending? Katie and I are both timing out on this week a little bit - I'm out Friday, and she's out Friday afternoon. I'll also be a couple of hours late tomorrow morning because I'm taking my dad to the airport. So please let us know when it's scheduled so that we can strategize.

Thanks very much! Katie and Katie

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Monday, May 24, 2010 4:10 PM
To: Brin, Katherine Race; Eichorn, Mark; Ratte, Kathryn D.
Subject: RE: Disclosure of non-public briefing to Google

Sounds good to me.

(b)(5)

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Monday, May 24, 2010 3:32 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Looks good to me – OGC probably should review before it goes to the Bureau. Thanks!

From: Eichorn, Mark
Sent: Monday, May 24, 2010 3:31 PM
To: Mithal, Maneesha
Cc: Ratte, Kathryn D.; Brin, Katherine Race
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Here are (slightly revised) materials relating to the non-public briefing.

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 1:06 PM
To: Mithal, Maneesha
Cc: Eichorn, Mark
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Here are drafts of the memo to the Commission and the response from the Chairman (based on the Kohl package from a couple of weeks ago). Please let me know if you have changes, and whether you plan to forward it to OGC/the Bureau/Commission (or if I should forward them to someone).

From: Mithal, Maneesha
Sent: Monday, May 24, 2010 12:36 PM
To: Ratte, Kathryn D.
Cc: Eichorn, Mark
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Thanks!

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 12:36 PM
To: Mithal, Maneesha
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

I'll do the cut/paste based on the package you sent me last week and get it to you this afternoon.

From: Mithal, Maneesha
Sent: Monday, May 24, 2010 12:35 PM
To: Matties, Deborah J.; Harrison, Lisa M.; Vandecar, Kim
Cc: Dawson, Rachel Miller; Sannappa, Nithan; DeLorme, Christine L.; Clark, Donald S.; Ratte, Kathryn D.
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

We'll send it around tomorrow. Thanks.

From: Matties, Deborah J.
Sent: Monday, May 24, 2010 12:32 PM
To: Harrison, Lisa M.; Vandecar, Kim
Cc: Dawson, Rachel Miller; Sannappa, Nithan; DeLorme, Christine L.; Clark, Donald S.; Mithal, Maneesha
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Thanks, Lisa.

From: Harrison, Lisa M.
Sent: Monday, May 24, 2010 12:30 PM
To: Vandecar, Kim; Matties, Deborah J.
Cc: Dawson, Rachel Miller; Sannappa, Nithan; DeLorme, Christine L.; Clark, Donald S.
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Preparing the papers is usually a BCP function as they are providing the brieifing, and OGC is available to assist with the papers. We did the first package for the nonpublic briefing on privacy given time constraints, and then DPIP handled the second one as it was nearly identical. I imagine it will be fairly easy for them to do this one as well.

From: Vandecar, Kim
Sent: Monday, May 24, 2010 12:27 PM
To: Matties, Deborah J.
Cc: Dawson, Rachel Miller; Harrison, Lisa M.; Sannappa, Nithan; DeLorme, Christine L.; Clark, Donald S.
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Letting them know asap is always good. Would you like me to handle that for you? I know you are trying to get out the door.

From: Matties, Deborah J.
Sent: Monday, May 24, 2010 12:25 PM
To: Vandecar, Kim
Cc: Dawson, Rachel Miller; Harrison, Lisa M.; Sannappa, Nithan; DeLorme, Christine L.; Clark, Donald S.
Subject: RE: Markey-Barton Request for Non-Public Briefing on

Google Wi-Fi

Will OGC be sending the recommendation for a vote on the response from Don Clark, as was done before? Our office will be out through tomorrow, but we could move it for a vote as early as Wednesday. Kim - any reason not to loop in the other offices now?

From: Vandecar, Kim
Sent: Monday, May 24, 2010 12:09 PM
To: Mithal, Maneesha; Rich, Jessica L.; Clark, Donald S.; Taylor, Susan; Olsen, Christopher; Dawson, Rachel Miller; Harrison, Lisa M.; Sannappa, Nithan; Kaufman, Daniel; Matties, Deborah J.; DeLorme, Christine L.
Cc: Bumpus, Jeanne; Simons, Claudia A.
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Staff would like the briefing Friday morning (as early as possible if that day works at all). If not Friday, Tuesday the 1st will likely work.

Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Wednesday, May 19, 2010 2:00 PM
To: Brin, Katherine Race; Eichorn, Mark; Ratte, Kathryn D.
Subject: RE: Early Clips 5.19.10

Yes, thanks.

From: Brin, Katherine Race
Sent: Wednesday, May 19, 2010 1:53 PM
To: Mithal, Maneesha; Eichorn, Mark; Ratte, Kathryn D.
Subject: RE: Early Clips 5.19.10

I'm assuming we need to respond to the Consumer Watchdog letter, a la our responses to the EPIC petitions?

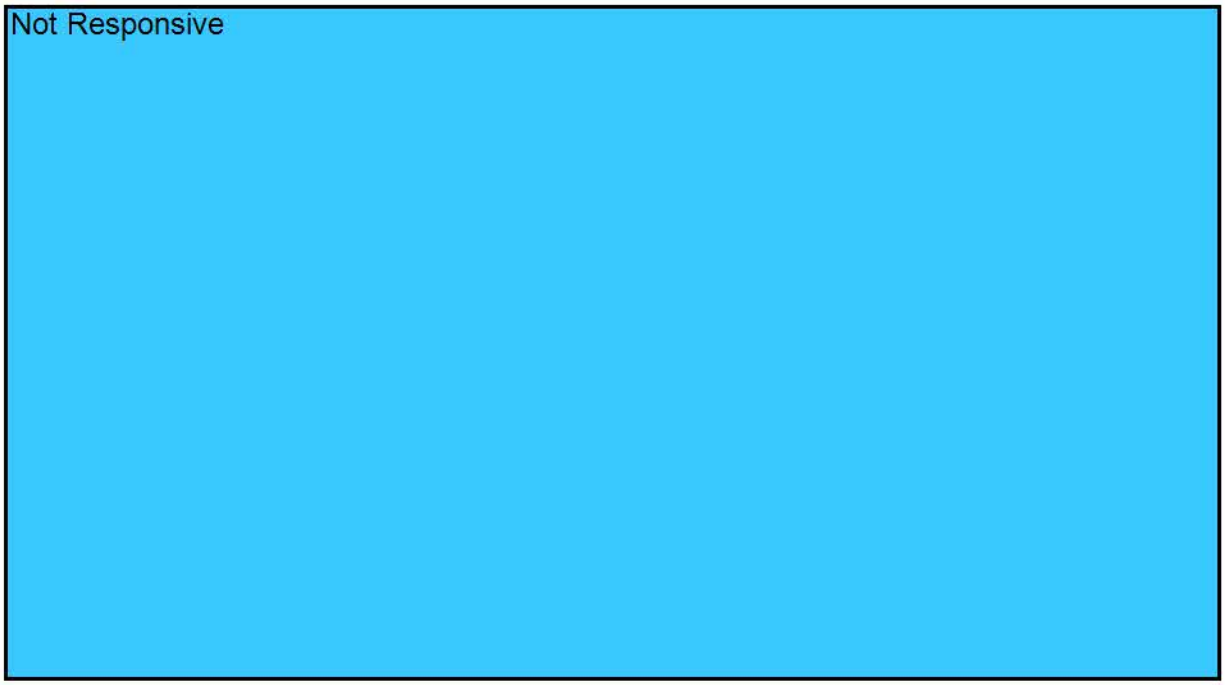
From: Mithal, Maneesha
Sent: Wednesday, May 19, 2010 1:48 PM
To: Eichorn, Mark; Ratte, Kathryn D.; Brin, Katherine Race
Subject: FW: Early Clips 5.19.10

See last article.

From: Prewett, Cecelia
Sent: Wednesday, May 19, 2010 9:21 AM
To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel
Subject: Early Clips 5.19.10

WSJ: Facebook Grapples With Privacy Issues
Reuters: Google to fight government if AdMob deal blocked
USAT: Protests widen over Google's Wi-Fi data harvesting
MAY 19, 2010

Not Responsive



USA Today

Protests widen over Google's Wi-Fi data harvesting

07:43 PM

Canadian regulators said on Tuesday they will contact officials in nine other nations to discuss Google's collection of citizens' data transmitted over open Wi-Fi systems.

"We are shocked and deeply concerned about this," says Anne-Marie Hayden, spokesperson for Canadian Privacy Commissioner Jennifer Stoddard. "We're in touch with our international counterparts to examine next steps that could include enforcement action."

At issue is Google's recent disclosure <http://googleblog.blogspot.com/2010/05/wifi-data-collection-update.html> that it has been using a practice known as "war driving" <http://en.wikipedia.org/wiki/Wardriving> to gather data moving across unprotected Wi-Fi networks in homes and businesses across North America, Europe, Australia and Asia. Since 2007, the company has dispatched photographers in vehicles to take snapshots of street scenes in major cities for use in Google maps. But cars were also equipped to capture Wi-Fi signals within range of the vehicle.

After German officials inquired about this practice, Google on April 27 said it was collecting <http://googlepolicyeurope.blogspot.com/2010/04/data-collected-by-google-cars.html> only basic Wi-Fi information. But on Friday Google admitted <http://googlepolicyeurope.blogspot.com/> that it also has been erroneously collecting personal data transmitted by Wi-Fi networks. It grounded the cars and apologized.

"Maintaining people's trust is crucial to everything we do, and in this case we fell short," Alan Eustace, senior vice-president of engineering and research, says in a blog post.

Google already has heeded a request by Ireland to destroy any personal data of Irish citizens collected.

Meanwhile, the U.S. Federal Trade Commission is reviewing a letter from advocacy group Consumer Watchdog calling for <http://www.consumerwatchdog.org/corporateering/articles/?storyId=34304>

a federal probe of Google's data harvesting practices. "They said they weren't doing this, then a month later they claimed they were doing it, but it was by mistake," says John Simpson, spokesman for the group.

By Byron Acohido

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Wednesday, September 22, 2010 2:33 PM
To: Eichorn, Mark
Subject: FW: Google WiFi
Attachments: 2010-09-15 Gidari - Fahringer Letter to K. Ratte.PDF

Duplicate

Corrigan, Sarah E.

From: Nielsen, Christine [cnielsen@atg.state.il.us]
Sent: Thursday, August 05, 2010 3:46 PM
To: Brin, Katherine Race; 'Schafer, Scott (AGO)'
Cc: Ratte, Kathryn D.
Subject: RE: reschedule today's call

I'm still planning on our 4pm meeting.

We can use this number:
Dial in number: 213-270-2124
Access Code: 250770

Thanks.

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From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Thursday, August 05, 2010 2:38 PM
To: 'Schafer, Scott (AGO)'; Nielsen, Christine
Cc: Ratte, Kathryn D.
Subject: RE: reschedule today's call

Hi Scott and Christine. Are we still on for 4 pm today? If so, should we use the same number as before?

Katie Ratte is out of the office today unexpectedly, but we can soldier on without her.

From: Ratte, Kathryn D.
Sent: Thursday, July 29, 2010 1:29 PM
To: 'Schafer, Scott (AGO)'; 'Nielsen, Christine'
Cc: Brin, Katherine Race
Subject: RE: reschedule today's call

Great! We'll call you then. Just let us know what # to use (or whether we should set one up). Thanks!

From: Schafer, Scott (AGO) [mailto:Scott.Schafer@state.ma.us]
Sent: Thursday, July 29, 2010 1:10 PM
To: Nielsen, Christine; Ratte, Kathryn D.; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: RE: reschedule today's call

That works for me as well.

From: Nielsen, Christine [mailto:cnielsen@atg.state.il.us]

Sent: Thursday, July 29, 2010 1:08 PM
To: 'Ratte, Kathryn D.'; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: RE: reschedule today's call

That works for me.

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From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Thursday, July 29, 2010 12:07 PM
To: 'Schafer, Scott (AGO)'; Nielsen, Christine
Cc: Brin, Katherine Race
Subject: reschedule today's call

Hi Scott and Christine,

Katie has been selected for jury duty (bummer), so we were hoping to reschedule today's call on Google WiFi. Are you available next Thursday, same time? (4pm?)

Thanks,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, October 29, 2010 8:53 AM
To: Brin, Katherine Race
Subject: RE: Question for when you return to office

Excellent point. We did brief the managers on all this multiple times, didn't we?

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, October 29, 2010 8:53 AM
To: Brin, Katherine Race
Subject: FW: Question for when you return to office

Do you mind calling Kim? I'm logging off soon and determined to take a proper AWS day and weekend off. (b)(7)(A)

-----Original Message-----
From: Mithal, Maneesha
Sent: Friday, October 29, 2010 8:52 AM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: Re: Question for when you return to office

(b)(7)(A) And would one of you call Kim? She had questions re the states. Thanks!

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, October 29, 2010 8:11 AM
To: Mithal, Maneesha; Brin, Katherine Race
Subject: RE: Question for when you return to office

(b)(7)(A)

Duplicate

Corrigan, Sarah E.

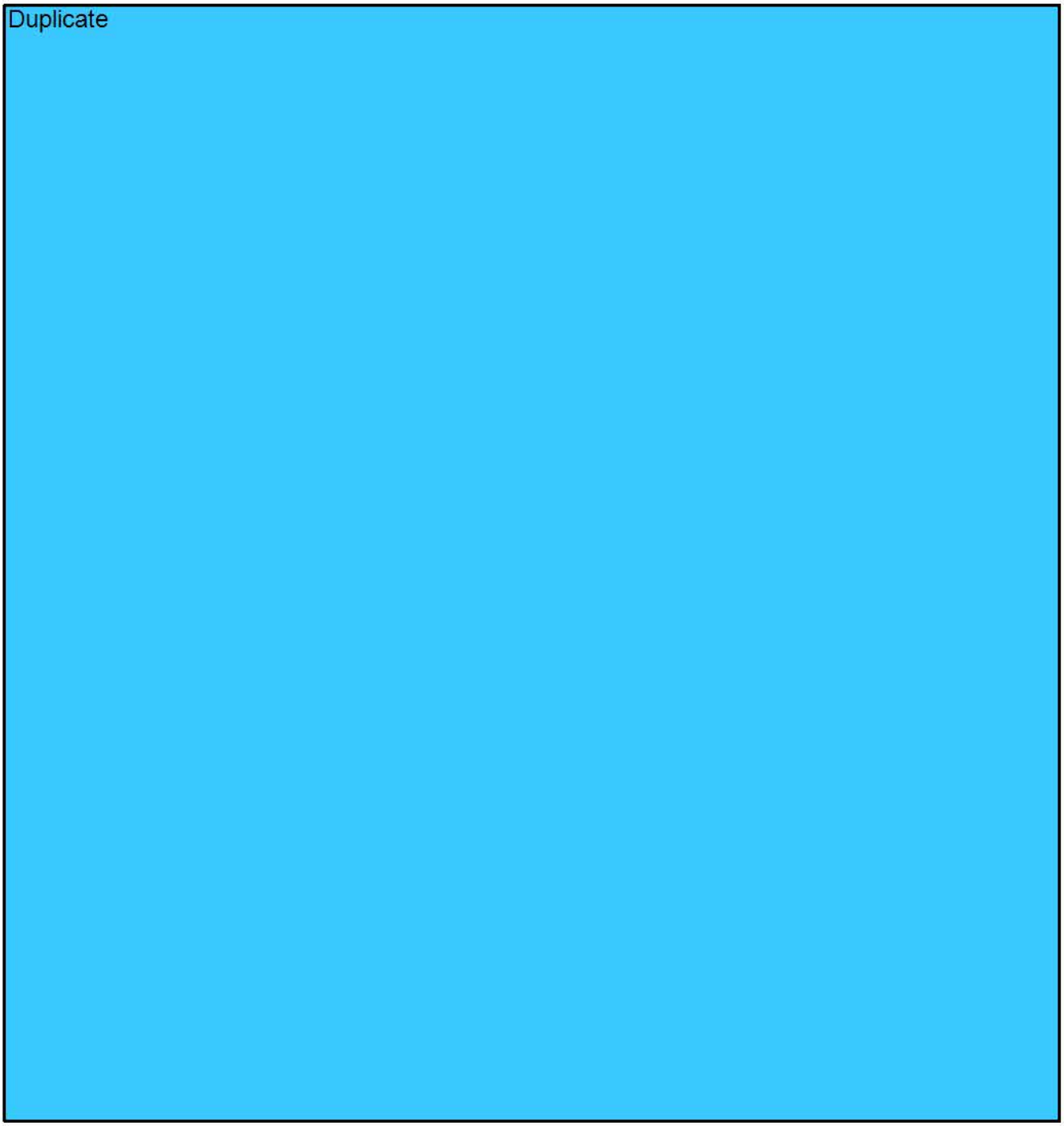
From: Ratte, Kathryn D.

Sent: Wednesday, October 27, 2010 1:29 PM

To: Brin, Katherine Race

Subject: RE: FTC to Google re Wi-Fi data capture: case closed

Thanks! Your plan sounds good. She left me a message around 1, so maybe we'll get a readout of what they actually talked about.



Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 2:15 PM
To: Brin, Katherine Race
Subject: RE: Google wi-fi letter

I just ran into Maneesha in the hallway, and she said that Claudia wants to release the letter tomorrow. Maneesha will send us a new draft with the commissioner edits, and we can take a look and then send to Al. I

(b)(5)

From: Brin, Katherine Race
Sent: Tuesday, October 26, 2010 1:11 PM
To: Mithal, Maneesha; Ratte, Kathryn D.
Cc: Rich, Jessica L.
Subject: RE: Google wi-fi letter

Good news.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 11:26 AM
To: Brin, Katherine Race
Subject: RE: Google wi-fi - heads up for Monday

(b)(5)

From: Brin, Katherine Race
Sent: Monday, October 25, 2010 11:25 AM
To: Ratte, Kathryn D.
Subject: RE: Google wi-fi - heads up for Monday

(b)(5)

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 11:24 AM
To: Brin, Katherine Race
Subject: RE: Google wi-fi - heads up for Monday

(b)(5)

From: Brin, Katherine Race
Sent: Monday, October 25, 2010 11:21 AM
To: Ratte, Kathryn D.
Subject: RE: Google wi-fi - heads up for Monday

Deep breaths.

Not Responsive

From: Brin, Katherine Race
Sent: Monday, October 25, 2010 11:19 AM
To: Ratte, Kathryn D.
Subject: RE: Google wi-fi - heads up for Monday

I hear you. (b)(5)
(b)(5)

Not Responsive

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 8:53 AM
To: Rich, Jessica L.; Mithal, Maneesha
Cc: Brin, Katherine Race; Eichorn, Mark; Glassman, Mark
Subject: Re: Google wi-fi - heads up for Monday

Does this require an edit, or we going to send the letter to Carolyn and see if she has anything to add?

From: Rich, Jessica L.
To: Mithal, Maneesha
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark
Sent: Sun Oct 24 22:14:30 2010
Subject: Re: Google wi-fi - heads up for Monday

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

From: Mithal, Maneesha
To: Rich, Jessica L.
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark
Sent: Sun Oct 24 22:00:24 2010
Subject: Re: Google wi-fi - heads up for Monday

(b)(5)

(b)(5)

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, October 24, 2010 8:33 AM
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: Re: One Q

Yes - after the biweekly when we decided to go this route, David told me to call outside counsel and let them know. They were quite receptive to this idea. And I think they will be happy with the letter as it is now. (Though I know it could change...)

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Sent: Sun Oct 24 08:30:26 2010
Subject: Re: One Q

Thanks. I assume from what you've been saying that google knows we may write a letter?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Sent: Sun Oct 24 08:19:08 2010
Subject: Re: One Q

(b)(5)

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Sent: Sun Oct 24 08:06:53 2010
Subject: One Q

Did Google include in its public announcement info about not using the data (ie info that tracks their assurances to us)?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Corrigan, Sarah E.

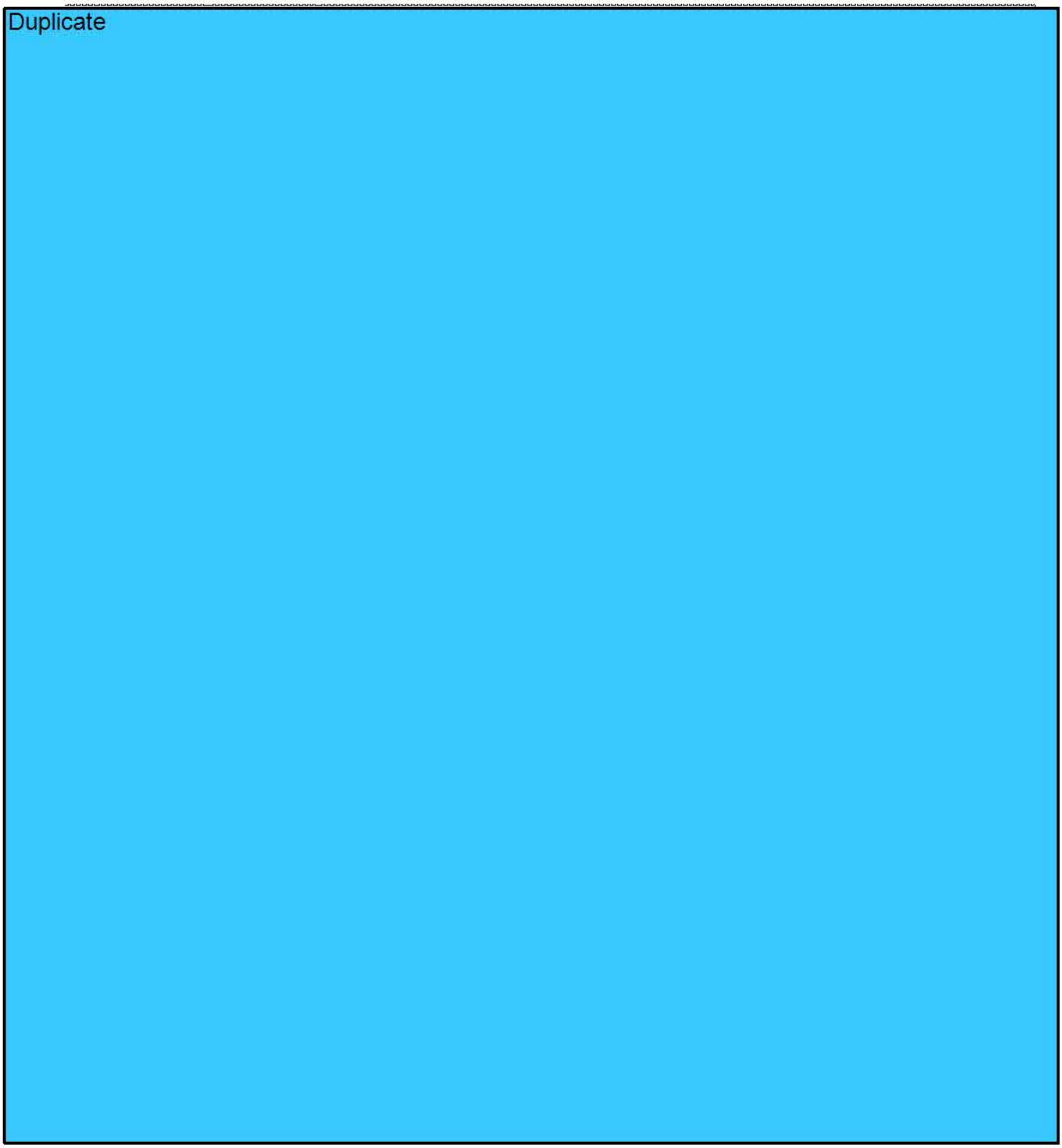
From: Brin, Katherine Race
Sent: Friday, October 29, 2010 11:41 AM
To: Vandecar, Kim
Subject: Google WiFi

Hi Kim. Sorry I missed your call. Just tried you in your office and left a message on your BBerry. I'll be working from home until about 4:30 today, so feel free to call me to chat about Google WiFi. Thanks.

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 10:54 AM
To: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha
Subject: RE: wifi letter

I have an 11 am call but am happy to discuss the letter after that if the edits don't make sense.



Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, October 21, 2010 9:24 AM
To: Brin, Katherine Race
Subject: RE: revised Google letter

I'm still at home, and I haven't figured out what I'm doing today. I haven't made a move off the couch, which is not a good sign…

If you have time, please go ahead and get the letter to Maneesha. Sounds like we're getting more information soon, but if we're steering clear of nonpublic info, we can't use it anyway. Thanks!

From: Brin, Katherine Race
Sent: Thursday, October 21, 2010 9:22 AM
To: Ratte, Kathryn D.
Subject: RE: revised Google letter

Are you working this morning, or do you want me to edit the letter and send it to Maneesha? Hope you're feeling better!

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 5:38 PM
To: Eichorn, Mark; Brin, Katherine Race
Subject: Re: revised Google letter

Sounds good to me - thanks!

From: Eichorn, Mark
To: Brin, Katherine Race; Ratte, Kathryn D.
Sent: Wed Oct 20 17:04:59 2010
Subject: RE: revised Google letter

Let's take it out.

From: Brin, Katherine Race
Sent: Wednesday, October 20, 2010 4:57 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: revised Google letter

(b)(5)

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 2:22 PM
To: Eichorn, Mark
Cc: Brin, Katherine Race
Subject: revised Google letter

Mark – here's a revised version of the Wi-Fi letter and a compare. (b)(5)

(b)(5)

Take a look and see what you think. When we discuss this with Maneesha, we should highlight that some of the DPAs plan to talk about this at the OECD mtg in Jerusalem next week, so we should give David a heads up.

Katie and Katie

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Thursday, October 28, 2010 10:56 AM
To: Ratte, Kathryn D.
Subject: Ok, this one is hilarious

http://www.crunchgear.com/2010/10/28/ftc-ends-street-view-feud-with-google-after-winning-privacy-concessions/

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, October 18, 2010 10:42 AM
To: Brin, Katherine Race
Subject: Emailing: Vladeck Google WiFi letter.10.18.10

Attachments: Vladeck Google WiFi letter.10.18.10.wpd

Vladeck Google WiFi letter.10....

opefully this captures what we talked about last week. (b)(5)

(b)(5) See what you think.

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, October 05, 2010 3:32 PM
To: 'Nielsen, Christine'; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: RE: call this week

That's great for us – same number as before?

From: Nielsen, Christine [mailto:cnielsen@atg.state.il.us]
Sent: Tuesday, October 05, 2010 3:29 PM
To: Ratte, Kathryn D.; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: RE: call this week

We actually have a (b)(7)(A) call on Thursday at 3:30. Can we say 4:30pm Eastern just in case the EC call goes an hour?

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From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Tuesday, October 05, 2010 2:29 PM
To: Nielsen, Christine; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: call this week

Hi Christine and Scott – I see that we have a call scheduled for tomorrow to discuss status on Google WiFi. Would it be possible to delay the call 24 hours and do it at 4 pm Thursday? If that time is not good, could we look for another time on Thursday after 1:15, or else something the following week?

Thanks very much,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, October 05, 2010 3:31 PM
To: Brin, Katherine Race
Subject: RE: call this week

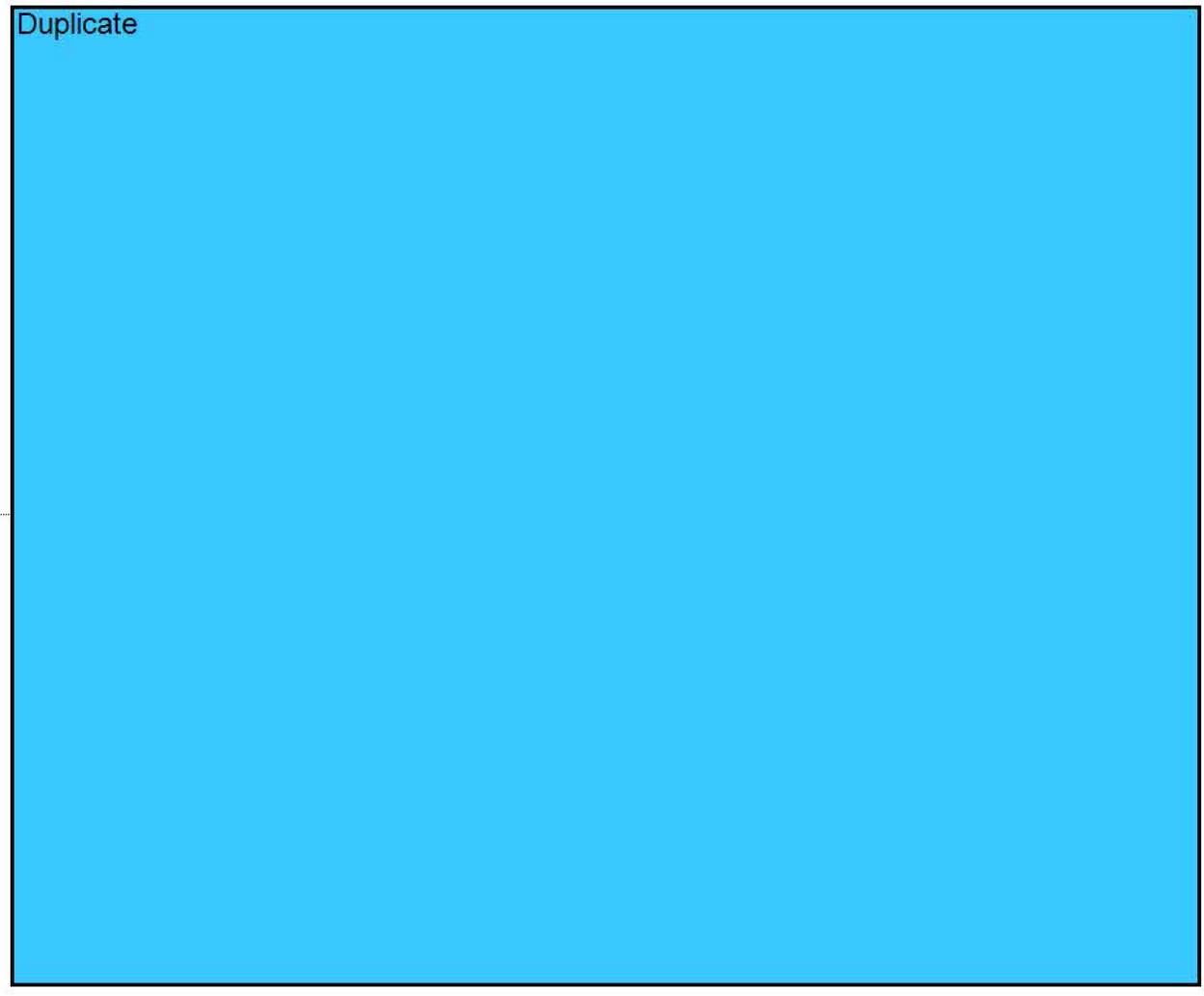
Great. Maybe they'll have more to report after the call....

From: Brin, Katherine Race
Sent: Tuesday, October 05, 2010 3:31 PM
To: Ratte, Kathryn D.
Subject: RE: call this week

yup

From: Ratte, Kathryn D.
Sent: Tuesday, October 05, 2010 3:31 PM
To: Brin, Katherine Race
Subject: FW: call this week

Ok with you?



Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Thursday, October 28, 2010 9:30 AM
To: Ratte, Kathryn D.
Subject: RE: Re:

Yeah, I just read it. It's horrible. It does give a nod to our differing laws, but makes it seem like it's a enforcement choice we have and that we are in the pocket of business.

-----Original Message-----
From: Katie Ratte (b)(6)
Sent: Thursday, October 28, 2010 9:28 AM
To: Brin, Katherine Race
Subject: Re:

the Post one, not so good. I think she gets the story wrong from the very first line.

On Thu, Oct 28, 2010 at 9:25 AM, Brin, Katherine Race <kbrin@ftc.gov> wrote:
> Nice.
>
> -----Original Message-----
> From: Katie Ratte (b)(6)
> Sent: Wednesday, October 27, 2010 6:31 PM
> To: Brin, Katherine Race
> Subject:
>
> this one is better:
> http://www.wired.com/threatlevel/2010/10/ftc-google-wifi-sniffing/
>

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, October 04, 2010 9:01 AM
To: Brin, Katherine Race
Subject: RE: Google FOIA Question

Duh – I totally forgot. No need to chat, actually – I plan to get into the documents today and maybe start outlining a letter re: WiFi. Good luck at the closing! Hopefully you have a good pen for all the signing.

From: Brin, Katherine Race
Sent: Monday, October 04, 2010 9:00 AM
To: Ratte, Kathryn D.
Subject: RE: Google FOIA Question

Hi there. I'm teleworking today – we're closing on our house this morning – but feel free to give me a call this afternoon if you want to chat about Google.

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, September 28, 2010 5:20 PM
To: Brin, Katherine Race; Soltani, Ashkan
Subject: RE: Google WiFi

Will do. Thanks!

From: Brin, Katherine Race
Sent: Tuesday, September 28, 2010 4:37 PM
To: Soltani, Ashkan; Ratte, Kathryn D.
Subject: RE: Google WiFi

Sounds good – thanks, Ashkan.

Katie, why don't you call me at 10, then I can patch in Ashkan.

(b)(5)

(b)(5)

From: Fahringer, Susan (Perkins Coie) [mailto:SFahringer@perkinscoie.com]
Sent: Wednesday, September 15, 2010 7:21 PM
To: Ratte, Kathryn D.
Cc: Gidari, Al (Perkins Coie); Gregory, Rebecca (Perkins Coie)
Subject: Google WiFi

Dear Katie:
Please see the attached, in answer to your further questions regarding Google's collection of WiFi network data.
Best regards,
Susan

Susan Fahringer | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101
Tel.: 206.359.8687
Fax: 206.359.9687
Cell: 206.407.7200
SFahringer@perkinscoie.com

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****

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Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, September 07, 2010 9:19 PM
To: Brin, Katherine Race
Subject: FW: 2010-08-30 Google Resumes Street View Filming Despite Privacy Watchdog Concerns.docx

FYI

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, September 07, 2010 8:06 AM
To: Brin, Katherine Race
Subject: FW: 2010-08-30 Google Resumes Street View Filming Despite Privacy Watchdog Concerns.docx

FYI on Google Street View in Europe.

(b)(5)

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, August 25, 2010 3:18 PM
To: Eichorn, Mark
Cc: Brin, Katherine Race; Mithal, Maneesha
Subject: RE: WiFi data collection

Good news – we just spoke to Al, and he indicated that Google would not have any resistance to a public commitment (in a public letter from David) not to use the payload data in any product or service. He also said that he'd be happy to answer any follow-up questions we have about the collection of location data (as described below). Katie will work on the letter while I'm out, and we'll get going on that. I think we'll be able to resolve this pretty quickly once we get those responses. (b)(5)

From: Eichorn, Mark
Sent: Wednesday, August 25, 2010 11:14 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Re: WiFi data collection

Sounds good.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, August 25, 2010 2:06 PM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: Google Wi-Fi

Hi Al,

Katie and I were hoping to touch base with you (briefly) on Google Wi-Fi. We're both available for the next 2 hours, but if this afternoon is not good for you, Katie will be available the rest of this week and next week (I will be on vacation). She can be reached at (202) 326-2106.

Thanks very much,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, August 25, 2010 11:27 AM
To: Rich, Jessica L.; Eichorn, Mark; Mithal, Maneesha
Cc: Soltani, Ashkan; Brin, Katherine Race
Subject: RE: WiFi data collection

I should have added that this was a very abbreviated conversation because I had calls all afternoon yesterday, but they proposed checking in again after Labor Day to let us know how their plans for rollout are progressing (b)(3):6(f),(b)(4)
(b)(3):6(f),(b)(4) The folks from the mobile team on the call were quite good – I will keep you posted on what we find out.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, August 25, 2010 11:15 AM
To: Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: WiFi data collection

Thanks! Hopefully we can get a second letter out soon.

From: Eichorn, Mark
Sent: Wednesday, August 25, 2010 11:14 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: Re: WiFi data collection

Sounds good.

Duplicate

Not Responsive

Duplicate

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, July 29, 2010 1:29 PM
To: 'Schafer, Scott (AGO)'; 'Nielsen, Christine'
Cc: Brin, Katherine Race
Subject: RE: reschedule today's call

Great! We'll call you then. Just let us know what # to use (or whether we should set one up). Thanks!

From: Schafer, Scott (AGO) [mailto:Scott.Schafer@state.ma.us]
Sent: Thursday, July 29, 2010 1:10 PM
To: Nielsen, Christine; Ratte, Kathryn D.; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: RE: reschedule today's call

That works for me as well.

From: Nielsen, Christine [mailto:cnielsen@atg.state.il.us]
Sent: Thursday, July 29, 2010 1:08 PM
To: 'Ratte, Kathryn D.'; 'Schafer, Scott (AGO)'
Cc: Brin, Katherine Race
Subject: RE: reschedule today's call

That works for me.

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From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Thursday, July 29, 2010 12:07 PM
To: 'Schafer, Scott (AGO)'; Nielsen, Christine
Cc: Brin, Katherine Race
Subject: reschedule today's call

Hi Scott and Christine,

Katie has been selected for jury duty (bummer), so we were hoping to reschedule today's call on Google WiFi. Are you available next Thursday, same time? (4pm?)

Thanks,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, July 28, 2010 2:08 PM
To: Brin, Katherine Race; Soltani, Ashkan
Subject: RE: ICO visited Google to check Street View Wi-Fi data

Very interesting – and good fodder for the next time we get housed by the Bureau on this point!

From: Brin, Katherine Race
Sent: Wednesday, July 28, 2010 1:43 PM
To: Ratte, Kathryn D.; Soltani, Ashkan
Subject: ICO visited Google to check Street View Wi-Fi data

http://www.v3.co.uk/v3/news/2267128/ico-visited-google-offices

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kbrin@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, July 26, 2010 5:01 PM
To: Brin, Katherine Race; Eichorn, Mark
Subject: FW: Google
Attachments: 2010-07-26 Ltr K. Ratte.PDF

Attached is the response to our request for information on Google Wi-Fi – I've only glanced at it, but it looks pretty complete. We can touch base when we're all back in the office next week. Thanks!

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, July 26, 2010 11:55 AM
To: 'AGidari@perkinscoie.com'
Cc: Brin, Katherine Race; 'swexler@google.com'; 'SFahringer@perkinscoie.com'
Subject: Re: Google Wi-Fi response

Thanks very much. Please let me know how you're planning to deliver it so that I can make sure to look for it if it's in hard copy. That being said, email with .pdf attached is just fine.

From: Gidari, Al (Perkins Coie) <AGidari@perkinscoie.com>
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; swexler@google.com <swexler@google.com>; Fahringer, Susan (Perkins Coie) <SFahringer@perkinscoie.com>
Sent: Mon Jul 26 11:46:31 2010
Subject: Re: Google Wi-Fi response

It will be on time. We are finalizing it this morning. Thanks for checking.

-----Original Message-----
From: Ratte, Kathryn D. <KRATTE@ftc.gov>
To: Gidari, Al (Perkins Coie)
CC: Brin, Katherine Race <kbrin@ftc.gov>
Sent: Mon Jul 26 08:44:05 2010
Subject: Google Wi-Fi response

Hi Al,

I'm checking in on the response to the FTC's request for further information on the Google Wi-Fi data collection, which is due today. Please let me know if you have any questions.

Thanks,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

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Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, July 22, 2010 5:42 PM
To: Brin, Katherine Race
Subject: RE: Google WiFi Response

Thanks for the reminder! You're so good.

From: Brin, Katherine Race
Sent: Thursday, July 22, 2010 5:27 PM
To: Ratte, Kathryn D.
Subject: Google WiFi Response

Just a reminder, Google's response to our WiFi letter is due on Monday.

Katherine Race Brin
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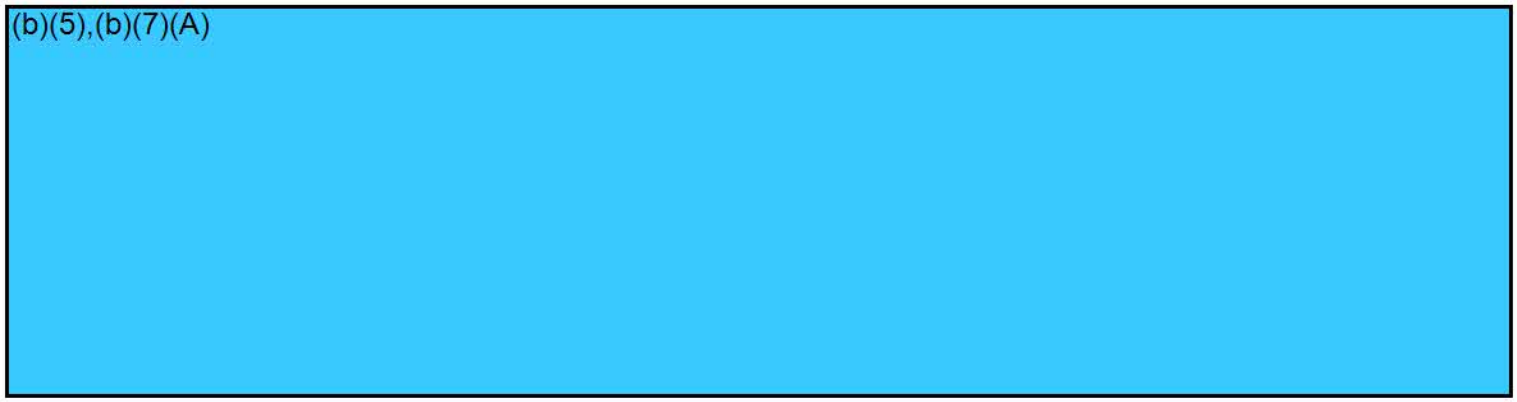
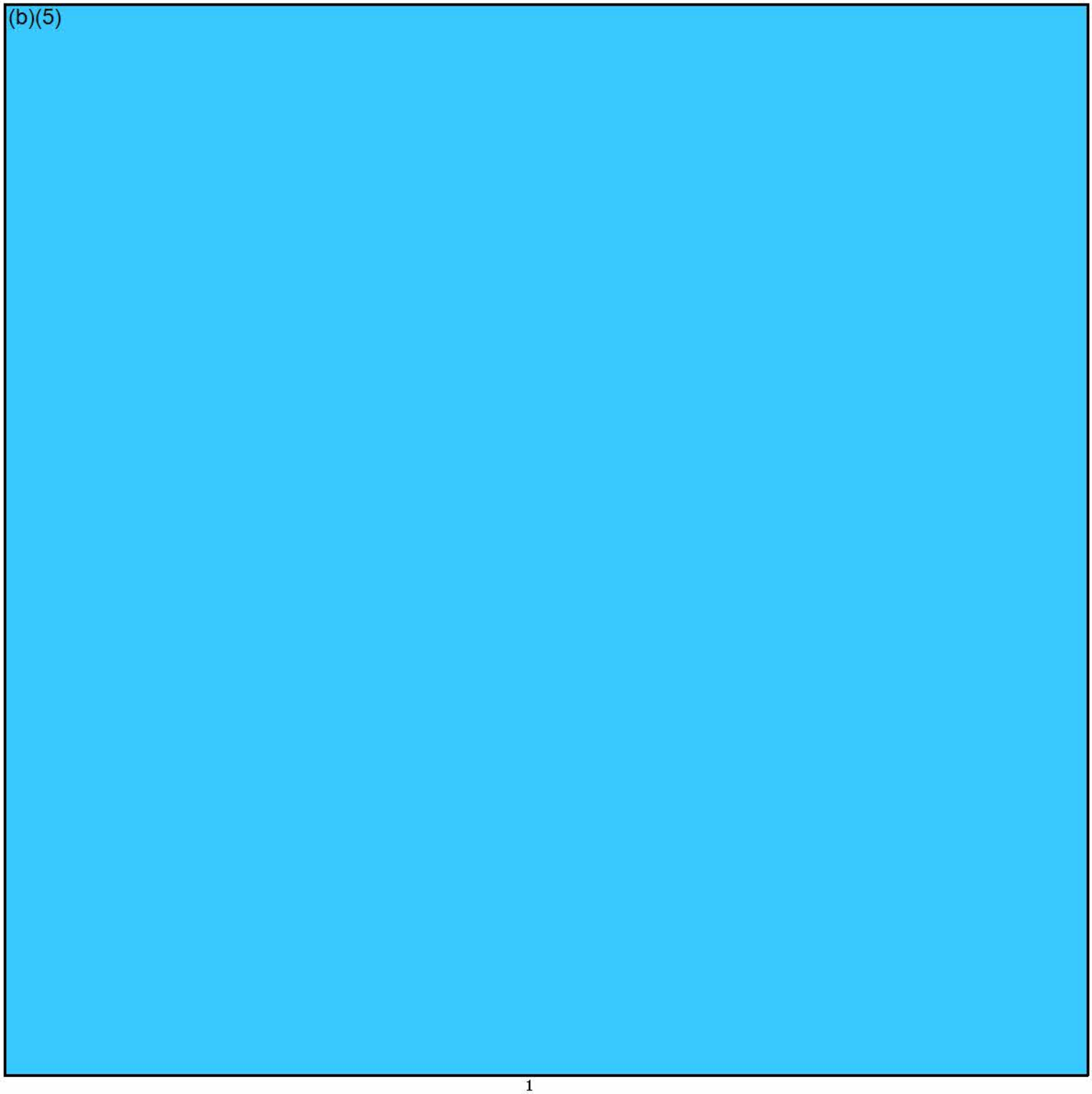
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, July 09, 2010 1:02 PM
To: Brin, Katherine Race
Subject: Fw: Google WiFi

I think I should respond with a heads up on our Qs, unless you disagree. Let me know what you think.


(b)(5),(b)(7)(A)


(b)(5)

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:21 AM
To: Brin, Katherine Race
Subject: FW: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

6 of 6

Sorry I didn't get these out sooner – crazy couple of days before I left! Hope you are feeling better and have fun in NY.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:21 AM
To: Brin, Katherine Race
Subject: FW: Google WiFi (b)(3):21(f)
Attachments: (b)(3):21(f)

5 of 6

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:20 AM
To: Brin, Katherine Race
Subject: FW: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

4 of 6

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:20 AM
To: Brin, Katherine Race
Subject: FW: Google WiFi - (b)(3):21(f)

3 of 6

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:20 AM
To: Brin, Katherine Race
Subject: FW: Google WiFi - (b)(3):21(f)
Attachments: (b)(3):21(f)

2 of 6

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:20 AM
To: Brin, Katherine Race
Subject: FW: Google WiFi (b)(3):21(f)
Attachments: FI - Jun 14 - NWFinnishResponse.pdf; FI - 06.14 - Coverletter.pdf

1 of 6

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Sunday, June 20, 2010 10:19 AM
To: Brin, Katherine Race
Subject: FW: FT on US State coordinated inquiry into Google street view data

I think you already saw this (and forwarded to me), but just in case.

From: Christina Speck [mailto:Cspeck@ntia.doc.gov]
Sent: Friday, June 18, 2010 7:08 PM
To: 'Nester, Jade A'; Stevenson, Hugh G.; McGirr, Doreen F; Ratte, Kathryn D.; Abbott, Alden F.; 'sfeuer@fcc.gov'; 'thomas.dukes@usdoj.gov'; 'Betty.Shave@usdoj.gov'; 'Kropf, John'; 'Val Huston'; 'Donald Calvert'; 'Robin Layton'; 'Lippeatt, J David'; Teelucksingh, Tony; Abbott, Alden F.
Subject: FW: FT on US State coordinated inquiry into Google street view data

US states query Google's Street View data

By Joseph Menn in San Francisco
Published: June 17 2010 19:21 | Last updated: June 17 2010 23:01

Google's Street View vehicles picked up e-mail data

Google is likely to face a co-ordinated inquiry from multiple US states into its collection of data from unsecured wireless networks, adding to a litany of probes that include actions by authorities in Germany, New Zealand as well as a pan-European group of privacy officials.

The attorneys-general of the states of Connecticut, Illinois and Massachusetts have sent letters to Google demanding more information about how the data were assembled from 2007 until this year and what has been done with them.

Under pressure from the German inquiry, Google last month admitted that the vehicles that took pictures of streets worldwide for its Street View service had also been sucking up the contents of e-mails being transmitted over unsecured home WiFi networks.

Google has said that the programming code that gathered the data was included accidentally in the Street View

software and has apologised.

While legal actions by individual states can force big changes at companies accused of wrongdoing, a multistate effort has a better chance of making a substantial impact. Working together, the top legal officers of states can assign more specialists to a case and focus on the local laws with the strictest language.

In the 1990s, co-ordinated lawsuits between states against the big tobacco companies secured advertising reforms and about $200bn in damages.

No decision has been made to bring a suit against Google, but Richard Blumenthal, Connecticut attorney-general, last week held a conference call with about 30 states to discuss the issue, and the Illinois and Massachusetts attorneys-general said on Wednesday they were acting together.

"My office takes issues concerning privacy and the security of personal information very seriously, and we are investigating Google's actions to determine whether any laws were broken and what steps must be taken to protect the privacy of Illinois residents," said Lisa Madigan, Illinois attorney-general.

Connecticut asked Google late last month how many home networks in the state had been affected but the company's initial answer did not include such details.

A spokesman for Mr Blumenthal said on Thursday that the letter was "a preliminary incomplete response" and that the state was waiting for more details.

Google said the company was in the process of answering all the inquiries. "It was a mistake for us to include code in our software that collected payload data but we don't believe we broke any US laws," it said. "We're working with the relevant authorities to answer their questions and concerns."

Google has also fielded questions from the US Federal Trade Commission, members of Congress, Europe's Article 29 working group and others.

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 16, 2010 3:26 PM
To: Brin, Katherine Race; Mithal, Maneesha; Eichorn, Mark
Subject: RE: States Discuss Joint Inquiry of Google's Data Collection

Good thing we have a call scheduled with some of them on the 30th (b)(5)

From: Brin, Katherine Race
Sent: Wednesday, June 16, 2010 3:24 PM
To: Mithal, Maneesha; Ratte, Kathryn D.; Eichorn, Mark
Subject: States Discuss Joint Inquiry of Google's Data Collection

http://bits.blogs.nytimes.com/2010/06/15/states-discussing-joint-investigation-of-googles-wi-fi-data-collection/

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(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, June 15, 2010 1:11 PM
To: Brin, Katherine Race
Subject: FW: Google WiFi

I think we want them all – do you agree?

Duplicate

(b)(5)

From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Thu Jun 10 11:09:22 2010
Subject: Former Prosecutor: Google Wi-Fi Snafu 'Likely' Illegal

http://www.wired.com/threatlevel/2010/06/google-wifi-debacle/

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(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 5:15 PM
To: Brin, Katherine Race
Subject: FW: Google Wi-Fi letter

Wonder if the meeting was with The Hill....

From: Gidari, Al (Perkins Coie) [mailto:AGidari@PerkinsCoie.com]
Sent: Wednesday, June 09, 2010 5:12 PM
To: Ratte, Kathryn D.
Subject: Out of Office AutoReply: Google Wi-Fi letter

I am out of the office on the afternoon of June 8th, traveling to the east coast for a meeting on June 9th and then returning to the west coast that evening. I will be slow to respond to email, unless I'm lucky enough to have wifi aboard!

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Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 1:02 PM
To: Sannappa, Nithan; Dawson, Rachel Miller; Vandecar, Kim; Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race; Harrison, Lisa M.
Subject: RE: Google Wi-Fi briefing Friday

Fine with me - I'll make that change. I'll have to sign for Maneesha because she's out today, but I don't think that's an issue. Thanks!

-----Original Message-----
From: Sannappa, Nithan
Sent: Wednesday, June 09, 2010 1:01 PM
To: Ratte, Kathryn D.; Dawson, Rachel Miller; Vandecar, Kim; Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race; Harrison, Lisa M.
Subject: RE: Google Wi-Fi briefing Friday

(b)(5)

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 12:20 PM
To: Dawson, Rachel Miller; Vandecar, Kim; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi briefing Friday

Thanks Rachel - (b)(5)
(b)(5) This will go to Google's counsel this evening, so let me know if you have any issues with the letter itself (which I attach again here).

-----Original Message-----
From: Dawson, Rachel Miller
Sent: Wednesday, June 09, 2010 12:17 PM
To: Vandecar, Kim; Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi briefing Friday

(b)(5)

-----Original Message-----
From: Vandecar, Kim
Sent: Wednesday, June 09, 2010 11:28 AM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan; Dawson, Rachel Miller
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi briefing Friday

(b)(5)

-----Original Message-----
From: Ratte, Kathryn D.

Sent: Wednesday, June 09, 2010 11:17 AM
To: Vandecar, Kim; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan; Dawson, Rachel Miller
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi briefing Friday

Thanks Kim. (b)(5)

(b)(5)

(b)(5)

-----Original Message-----
From: Vandecar, Kim
Sent: Wednesday, June 09, 2010 11:10 AM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan; Dawson, Rachel Miller
Cc: Brin, Katherine Race
Subject: RE: Google Wi-Fi briefing Friday

Adding Rachel.

(b)(5)

Staff is Mark Bayer. Just use Markey's main number at 202-225-2836

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 10:49 AM
To: Eichorn, Mark; Mithal, Maneesha; Sannappa, Nithan; Vandecar, Kim
Cc: Brin, Katherine Race
Subject: Google Wi-Fi briefing Friday

Hi everyone,

(b)(5)

(b)(5) Let me know.

Kim, is this plan okay with you? If so, who is the subcommittee counsel contact?

Thanks,
Katie

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Wednesday, October 27, 2010 4:53 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: RE: Google Wi-fi Petition

Well, at least that's one person who is not upset with us…

From: Eichorn, Mark
Sent: Wednesday, October 27, 2010 4:51 PM
To: JDL
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.; Mithal, Maneesha; Brin, Katherine Race
Subject: Google Wi-fi Petition

(b)(5)

Not Responsive

From: Brin, Katherine Race
Sent: Wednesday, June 09, 2010 12:45 PM
To: Ratte, Kathryn D.
Subject: RE: Google WiFi (b)(3):21(f)

And the plot thickens…

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 11:33 AM
To: Brin, Katherine Race
Subject: RE: Google Wi-Fi briefing Friday

Oy.

-----Original Message-----
From: Brin, Katherine Race
Sent: Wednesday, June 09, 2010 11:33 AM
To: Ratte, Kathryn D.
Subject: FW: Google Wi-Fi briefing Friday

Omg -- we've been thru this before.

See below:

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 4:13 PM
To: Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark
Subject: RE: Disclosure of non-public briefing to Google

Sounds great - thanks, Katie! (b)(5)

(b)(5)

From: Mithal, Maneesha
Sent: Monday, May 24, 2010 4:10 PM
To: Brin, Katherine Race; Eichorn, Mark; Ratte, Kathryn D.
Subject: RE: Disclosure of non-public briefing to Google

Sounds good to me.

From: Brin, Katherine Race
Sent: Monday, May 24, 2010 4:10 PM
To: Mithal, Maneesha; Eichorn, Mark; Ratte, Kathryn D.
Subject: Disclosure of non-public briefing to Google

(b)(5)

(b)(5)

Thoughts?

Katie
Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
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Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 09, 2010 7:06 AM
To: Brin, Katherine Race
Subject: RE: FYI

Thanks for the reminder – I totally forgot about that. You rock! I think we should do it today and it should be its own letter – I suspect the follow-up Qs letter will have to go through a lot of levels of review. I'll take care of the heads up letter this morning – I still have the Nithan draft from a couple of weeks ago.

From: Brin, Katherine Race
Sent: Tuesday, June 08, 2010 8:03 PM
To: Ratte, Kathryn D.
Subject: RE: FYI

Also, remember we have to send a letter to Google giving them the heads up about the Congressional briefing on Friday. Didn't know whether you wanted to do this tomorrow or Thursday, and also whether or not you wanted to combine it with our letter containing substantive questions re WiFi.

From: Ratte, Kathryn D.
Sent: Tuesday, June 08, 2010 5:52 PM
To: Brin, Katherine Race
Subject: RE: FYI

I'm absolutely counting on you having some time for Google after tomorrow, Not Responsi Not Responsive I will start drafting a follow-up letter to Google incorporating your questions and Ashkan's, and I'll hand that off to you (b)(5),(b)(7)(A) (b)(5),(b We can meet Thursday afternoon after we talk to Maneesha to strategize on the Hill briefing, and then once we do that and get the letter off, I will be all report all the time for a little while.

(b)(5)

Not Responsive

From: Brin, Katherine Race
Sent: Tuesday, June 08, 2010 10:30 AM
To: Ratte, Kathryn D.
Subject: RE: FYI

Not Responsive

I'll be checking in periodically today, but I'll definitely be in the office tomorrow. The (b)(7)(A) so I'll scrambling somewhat in preparation for that, but once that is out of the way my focus will be 100% Google!

Have you heard anything from Maneesha about her attending the briefing on Friday? Maybe we can touch base with Kim tomorrow or Thurs morning to talk about what to expect (maybe you know, I've never been to a Congressional briefing like this before….)

From: Ratte, Kathryn D.
Sent: Tuesday, June 08, 2010 10:11 AM
To: Brin, Katherine Race
Subject: FYI

(b)(5)

(b)(5) Not Responsive

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, June 08, 2010 1:24 PM
To: Brin, Katherine Race
Subject: RE: FYI

Apologies for not getting back to you sooner – I didn't see the last paragraph of your email! Not Responsive

Not Responsive (b)(5)

(b)(5)

Maneesha is coming to the briefing. I'll ask her if we can meet Thursday afternoon or Friday to discuss what to expect (I've never done one either…)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 6:26 PM
To: Brin, Katherine Race
Cc: Eichorn, Mark; Soltani, Ashkan
Subject: Investigations into Google Wi-Fi

Many of these are ones we've heard about already, but I wanted to share this list just for your files. I'm trying to create a master list of what's happening on this worldwide, just for our own information. Thanks!

http://newsfeed.time.com/2010/06/07/australia-launches-investigation-into-google/

http://www.pcworld.com/businesscenter/article/196667/google_street_view_faces_investigation_in_france_and_ita

http://www.spiegel.de/international/business/0,1518,695718,00.html

http://www.theregister.co.uk/2010/06/07/google_wifi_snoop_inquiries/

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 5:10 PM
To: Brin, Katherine Race
Subject: FW: Google Wi-Fi (b)(3):21(f)

(b)(3):21(f) He'll do the rest tomorrow.

(b)(5)

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 3:34 PM
To: Soltani, Ashkan; Brin, Katherine Race
Subject: RE: Google WiFi Report

Phone is fine if we have follow-up (and we may well have some questions about the report itself). Thanks much.

From: Soltani, Ashkan
Sent: Monday, June 07, 2010 3:32 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: Google WiFi Report

I'm out tomorrow (working from home since there's no computer for me here)

We can do phone tomorrow or in the office Wed/Thu. Only if you guys have questions though, otherwise I think all my points are below.
Schedule is up to date. Feel free to set something up if you need me.
-a

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 3:31 PM
To: Soltani, Ashkan; Brin, Katherine Race
Subject: RE: Google WiFi Report

Katie's tied up now, but no big deal if this slips until tomorrow. What's your schedule this week? Thanks!

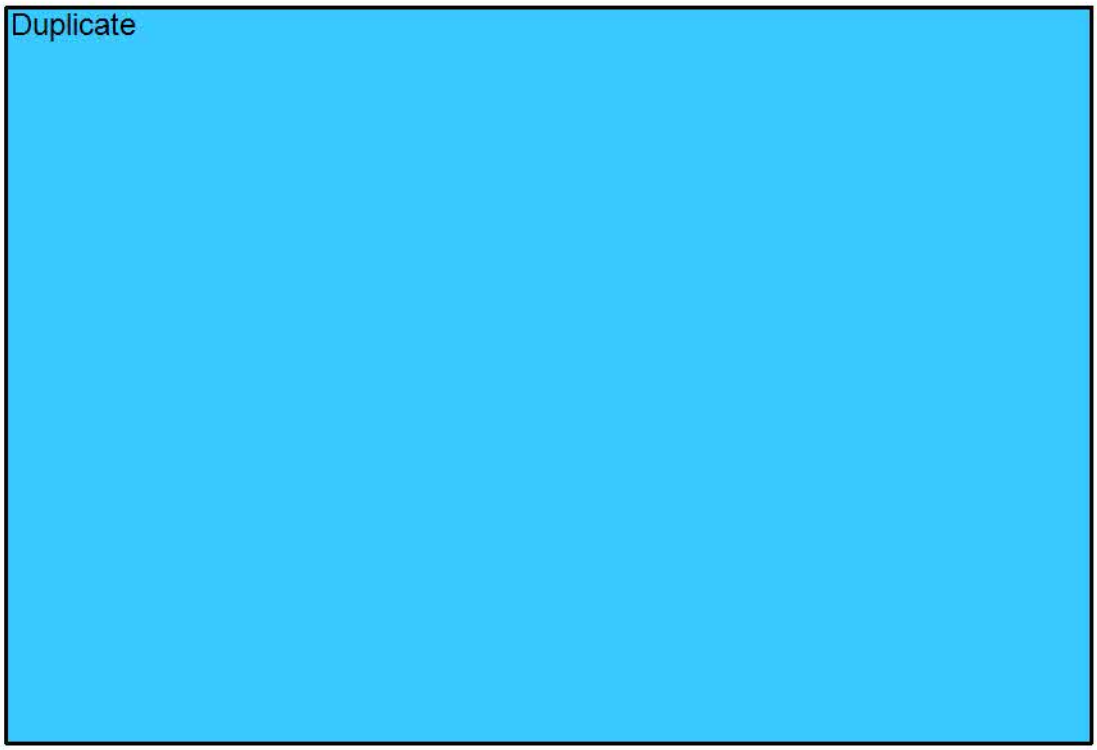
From: Soltani, Ashkan
Sent: Monday, June 07, 2010 3:30 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: Google WiFi Report

I'm in a meeting at 4 w/ Cora but can touch base now or else possibly 4:30/5 (Will be in Cora's office)

-a

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 2:25 PM
To: Soltani, Ashkan; Brin, Katherine Race
Subject: RE: Google WiFi Report

I am still slogging through the report, but maybe we could touch base after Katie's and my call at 4? Thanks!



Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 2:38 PM
To: Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: two scheduling Qs

Hi Maneesha – just a heads up that Kim scheduled the Google Wi-Fi briefing for Friday at 1 pm. You weren't on the scheduler – did you plan to attend?

Also, did you want me on the 4 pm call with Marc? I have a call with the Mass AG's office on Google Wi-Fi at the same time, but I could join late if you want.

Thanks!

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, June 07, 2010 10:56 AM
To: 'Gidari, Al (Perkins Coie)'
Cc: Brin, Katherine Race
Subject: RE: Google WiFi Report

More likely something informal, but we will keep you posted. We look forward to seeing (b)(3):21(f)
Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@PerkinsCoie.com]
Sent: Monday, June 07, 2010 10:46 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google WiFi Report

Thanks Katie - you may want to hold off until you get (b)(3):21(f) Can you define "in writing" for me? Informal email, access letter, CID..... hoping not!

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Monday, June 07, 2010 7:33 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: RE: Google WiFi Report

Al,

Thanks very much for your prompt response. We will have some follow-up questions on the Wi-Fi data collection for you this week, most likely in writing. I'll let you know as soon as we have more details on timing, but it's likely to be similar to (b)(3):21(f)

Best regards,
Katie

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, June 04, 2010 9:12 AM
To: Heyder, Markus B.
Cc: Brin, Katherine Race
Subject: Re: Google Wi-Fi (b)(3):21(f)

Thanks! Katie, fyi on (b)(3):21(f)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, June 04, 2010 9:00 AM
To: Brin, Katherine Race
Subject: Re: Clips Alert

I did not, but I will check it out when I get back to SAFE (I'm at the privacy law scholars conference until 10).

From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Fri Jun 04 08:55:54 2010
Subject: FW: Clips Alert

Did you see the article in the clips yesterday that talks about the "non-public" briefing? It's the one that discusses a letter sent to Google by NYC council member.

From: Kingsland, Gail M.H.
Sent: Thursday, June 03, 2010 12:36 PM
To: Akinola, Leslie; Atleson, Michael; Bauer, Benjamin; Benway, Kathleen; Boone, Calvin; Brill, Julie; Brin, Katherine Race; Broder, Betsy; Bruschi, Terri; Bush, Julie; Chadwick, Kyle; Chesnes, Matthew; Claybaugh, Melinda; Cohen, Kristin; Crane, Joanna; Damtoft, Russell W.; Davis, Michael; Delaney, Elizabeth; DeLorme, Christine L.; Dick, Rebecca; Eichorn, Mark; Elbein, Bradley; Espaldon, Karen; Fair, Lesley; Ferguson, Stacey; Feuer, Stacy; Field, Kenneth; France, Laureen; Frankle, Janice Podoll; George, Tiffany; Golden, William P.; Golder, James R.; Gray, Jessica D.; Groman, Marc; Guerard, Collot; Hanks, Daniel; Hann, Carolyn Lee; Harris, Larverne; Henry, Linda; Herman, Douglas; Hernacki, Andrew; Hodapp, Lawrence; Hrdy, Alice; Hunnicutt, James E.; Jablonsky, Diane L.; Jamison, Priscilla; Johnson, Laura A.; Kallay, Dina; Kando-Pineda, Carol A.; Kane, Thomas E.; Kappler, Burke; Kestenbaum, Janis; Koehler, David K.; Koslov, Tara Isa; Kossow, Todd M.; Kueckelhan, Deanya T.; Lamberton, Peter; Leach, Jennifer; Lejeune, Anne D.; Lupovitz, Joni; Mahini, Robert; Marcus, Phyllis; Marrone, Deborah; Matties, Deborah J.; Matz, Bethany E.; McKewen, Richard; Miller, Peter B.; Munck, Suzanne; Murphy, Bevin; Petersen, Cara; Prewett, Cecelia; Pyos, Monica M.; Raitt, Susan; Ramirez, Edith; Razi, Sara; Reeves, Amanda; Reynolds, Stephanie; Rich, Jessica L.; Roach, Patrick J.; Rodriguez, Edwin; Rosen, David; Runco, Philip; Sabo, Melanie; Schifferle, Lisa; Seeba, John; Shanoff, Carolyn; Sinasohn, Gideon; Smith, Michele; Stack, Laura; Stahl, Ann M.; Stevenson, Hugh G.; Stitt, Gloria; Taylor, Mark; Torok, David M.; Tran, Trang (Jan); Triggs, Casey; Trilling, James; Tucci, Elizabeth; Turnblacer, Nancy; Van Wazer, Thomas; Vera, Martha W.; Villaflor, Maria; Vincent, Nicole; Viswanathan, Serena; Wei, Joannie; Westman-Cherry, Melissa; White, Roxanne; Wiese, David M.; Wilshire, Matthew; Winston, Joel; Woods Bell, Deon; Wronka, Kathleen F.; Young, June; Young, Kial; Zullow, Evan; Zylberglait, Pablo
Subject: Clips Alert

Hello

Today's edition of Clips is now posted and available at
https://ftcintranet.ftc.gov/clips/pdfs/Clips0603101.pdf

Gail M. Kingsland
Office of Public Affairs
Federal Trade Commission

202-326-2178 desk
301-917-7205 cell

June 3, 2010 (Thursday)

Not Responsive

Pol Targets Google on Data Collection. New York Post 6/3

Google "Close" to Handing Over German Wi-Fi Data. BBC News 6/3

Not Responsive

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 02, 2010 10:15 AM
To: Brin, Katherine Race; Mithal, Maneesha
Subject: RE: WiFi briefing

Monday afternoon I have a few things, but the rest of the week is clear for me (and my calendar is up to date). Thanks for checking on this! I'm going to come in sooner than 12, so I'll stop by to chat about the submissions when I get in (soonish, maybe 11).

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 02, 2010 8:55 AM
To: Brin, Katherine Race
Subject: RE: Google Wi-Fi (b)(3):21(f)

Also, would you mind calling Kim V this morning to check in on the Hill briefing? Thanks!

From: Brin, Katherine Race
Sent: Wednesday, June 02, 2010 8:47 AM
To: Ratte, Kathryn D.
Subject: RE: Google Wi-Fi (b)(3):21(f)

Ok – I'll take a look and we can touch base when you get in at noon.

From: Ratte, Kathryn D.
Sent: Wednesday, June 02, 2010 6:38 AM
To: Brin, Katherine Race
Subject: FW: Google Wi-Fi (b)(3):21(f)

Not Responsive

Not Responsive (b)(5)

(b)(5)

Thanks!

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, June 02, 2010 8:52 AM
To: Brin, Katherine Race
Subject: RE: Google (b)(3):21(f)

Thanks! I'll reply to Al and thank him and confirm that we're getting documents in Buzz tomorrow. Yippee.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, June 01, 2010 7:38 PM
To: 'AGidari@PerkinsCoie.com'
Cc: Brin, Katherine Race
Subject: Re: Google Wi-Fi data collection

Hi Al,

I'm checking on the status of (b)(3):21(f) As you can imagine, we're getting a lot of questions from our superiors on when we will get that information.

Thanks very much,
Katie

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, June 01, 2010 3:38 PM
To: Mithal, Maneesha; Olsen, Christopher; Eichorn, Mark; Brin, Katherine Race
Subject: FW: OPC Investigation of Google Wi-fi Incident
Importance: High

FYI – Canada decided to investigate Google Wi-Fi anyway (b)(5)
Perhaps another argument for sitting back and letting jurisdictions with data collection laws take the lead?

From: Daniel Caron [mailto:Daniel.Caron@priv.gc.ca]
Sent: Tuesday, June 01, 2010 3:36 PM
To: Ratte, Kathryn D.
Subject: Re: OPC Investigation of Google Wi-fi Incident
Importance: High

Hi Katie,

Hope all is well in D.C. Thought I would give you a heads up that we have formally launched an investigation into Google's collection of data from unsecured wireless networks when photographing streetscapes for Street View:

http://www.priv.gc.ca/media/nr-c/2010/nr-c_100601_e.cfm

Don't worry.. I'll send you another e-mail soon about things to do when you are in Calgary!

Dan

Daniel Caron
Conseiller juridique/Legal Counsel
Direction des services juridiques, des politiques et des affaires parlementaires/Legal Services, Policy and Parliamentary Affairs Branch
Commissariat à la protection de la vie privée du Canada/Office of the Privacy Commissioner of Canada
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(b)(5)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, May 28, 2010 8:17 AM
To: Olsen, Christopher; Eichorn, Mark; Brin, Katherine Race; Mithal, Maneesha
Subject: Re: Post

It's irritating when it's inaccurate, though. (b)(5)
(b)(5)

----- Original Message -----
From: Olsen, Christopher
To: Eichorn, Mark; Ratte, Kathryn D.; Brin, Katherine Race; Mithal, Maneesha
Sent: Fri May 28 08:14:33 2010
Subject: Re: Post

People rightly assume we are on the beat! Not a bad thing, as long as we are not the source of any reports.

----- Original Message -----
From: Eichorn, Mark
To: Ratte, Kathryn D.; Olsen, Christopher; Brin, Katherine Race; Mithal, Maneesha
Sent: Fri May 28 07:39:01 2010
Subject: Re: Post

I've never seen as much baseless speculation about FTC activities, especially ours, as in the past month. Amazing.

----- Original Message -----
From: Ratte, Kathryn D.
To: Olsen, Christopher; Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha
Sent: Fri May 28 07:24:14 2010
Subject: Re: Post

What? Really? Where are they getting this information? It's not even accurate - the company confirmed that they're retaining the US data for litigation purposes, but that wasn't at our direction.

Ugh.

----- Original Message -----
From: Olsen, Christopher
To: Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark; Ratte, Kathryn D.
Sent: Fri May 28 06:47:32 2010
Subject: Post

Short article in the A section with the following title:
"FTC wants google to retain home WiFi data"

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, May 27, 2010 3:58 PM
To: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha
Subject: FW: General Privacy - P065401

Well, we have permission to brief Congress when it's time to do so. Kim said that she didn't think the Hill staffer in charge of scheduling could get everyone together by Tuesday, so it's going to be later. We'll keep you posted!

From: Wade, Fenice
Sent: Thursday, May 27, 2010 3:29 PM
To: Ratte, Kathryn D.
Cc: OSBCP
Subject: General Privacy - P065401

On May 27, 2010, a motion to grant the request of the House Committee on Energy and Commerce, Subcommittee on Energy and the Environment for a confidential staff briefing concerning Google's collection of consumers' Wi-Fi signals using its google street view cars was approved by a vote of 5-0.

Please contact the Minutes Section, at x2521, or Donald Clark, at x2514, if you need additional information.

Fenice N. Wade
Paralegal Specialist
Federal Trade Commission
Office of the Secretary
600 Pennsylvania Ave. NW
Ste. 174-B
Washington, DC 20580
(202) 326-2512 Office
(202) 326-2496 Fax
fwade@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, May 27, 2010 10:01 AM
To: Brin, Katherine Race
Subject: Re: Google Discussions

Thanks Katie - today at 2 or any time Tuesday morning is fine w me (my calendar should be up to date).

----- Original Message -----
From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Thu May 27 09:59:43 2010
Subject: FW: Google Discussions

I'm happy to reach out to him and set something up for today or Tuesday. Just let me know what you would prefer.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, May 27, 2010 9:59 AM
To: Brin, Katherine Race
Subject: Re: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Thanks very much!

From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Thu May 27 09:58:19 2010
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Oh, sorry. Found it.

I left a VM for Kim at 9:20 and haven't heard back.

From: Ratte, Kathryn D.
Sent: Thursday, May 27, 2010 9:27 AM
To: Brin, Katherine Race
Subject: Re: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

No - it's not in the Google folder - it's under Congressional (not Cases) in Briefings. Should be dated 5/25 or 26.

From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Thu May 27 09:18:15 2010
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Hi there. I don't see the letter in the Congressional Inquiries subfolder. There is a document in the main folder called "Barton Markey response.05 20 10." It looks like it was last saved on 5/21. Is that it?

From: Ratte, Kathryn D.
Sent: Thursday, May 27, 2010 8:58 AM
To: Brin, Katherine Race
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Okay, we didn't hear back from OCR by email, so would you mind calling Kim Vandecar and asking about the Mr. Chairman / Chairman Markey thing? (It's been Chairman whatever in all the models I've seen, so I'm not sure where this Q is coming from). Then change the letterhead and signature for Don Clark and send to him in WP. Thanks so much!

Oh, and the letters are in the Congressional / Briefings subfolder. I'll be on BB if you need me. Thanks again.

From: Matties, Deborah J.
Sent: Wednesday, May 26, 2010 6:57 PM
To: Ratte, Kathryn D.

Cc: Brin, Katherine Race
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Thanks very much!

From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 6:53 PM
To: Matties, Deborah J.
Cc: Brin, Katherine Race
Subject: Fw: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Hi Debbie - I will send the updated WP versions to Don as soon as Kim confirms the proper address for Chairman Markey. Thanks!

From: Harrison, Lisa M.
To: Ratte, Kathryn D.
Cc: Sannappa, Nithan; Goins, Suzie S.; Dawson, Rachel Miller; Vandecar, Kim
Sent: Wed May 26 17:50:51 2010
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Kim,

Should the letter be addressed to "Mr. Chairman" or "Chairman Markey"? And should it be "Representative Barton" or "Ranking Member Barton"? Thanks.

From: Matties, Deborah J.
Sent: Wednesday, May 26, 2010 5:46 PM
To: Kestenbaum, Janis; McKewen, Richard; Delaney, Elizabeth; Winerman, Marc; Cooper, James
Cc: Harrison, Lisa M.; Kaufman, Daniel; DeLorme, Christine L.; Vandecar, Kim; Ratte, Kathryn D.; Clark, Donald S.
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Hi everyone. We will circulate this on a pink for a vote by Friday COB. As with the previous letters, Don Clark, not the Chairman, will sign them. Katie, can you please send revised WP versions to Don Clark?

From: Vandecar, Kim
Sent: Monday, May 24, 2010 1:12 PM
To: Kestenbaum, Janis; Matties, Deborah J.; DeLorme, Christine L.; McKewen, Richard; Delaney, Elizabeth; Winerman, Marc; Cooper, James
Cc: Harrison, Lisa M.; Kaufman, Daniel
Subject: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

We wanted to let you know that Chairman Markey is requesting a non-public briefing on the Google Wi-Fi investigation. Staff from the hill is asking for the briefing on Tuesday June 1st. Please let me know if you have any questions. The bureau and general counsels office will send a formal memo and letter in the next day or two.

Kim

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 9:20 PM
To: Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark
Subject: Re: Wifi

(b)(5)

1 is fine with me (might be 1:05 if KRB and I make it to yoga).

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 7:01 PM
To: Brin, Katherine Race
Subject: Fw: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

If Kim doesn't get back to me by 8 tomorrow morning, I plan to kick this over to you. Hopefully she'll reply before that, though.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 4:44 PM
To: Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race; Soltani, Ashkan
Subject: Emailing: Google WiFi meeting notes 5 26 10.kdr edits

Attachments: Google WiFi meeting notes 5 26 10.kdr edits.wpd

Google WiFi
neeting notes 5 26..

i everyone - attached is Katie (RB)'s excellent summary of the meeting we had with Google's outside counsel on the Street View / Wi-Fi data collection incident. (b)((b)(5) Please let us know if you have any questions.

Any word back from OCR or the Bureau on scheduling the Hill briefing? And who exactly will be attending? Katie and I are both timing out on this week a little bit - I'm out Friday, and she's out Friday afternoon. I'll also be a couple of hours late tomorrow morning because I'm taking my dad to the airport. So please let us know when it's scheduled so that we can strategize.

Thanks very much! Katie and Katie

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 4:16 PM
To: Brin, Katherine Race
Cc: Eichorn, Mark
Subject: RE: Lawsuits Pour in Over Google's Wi-Fi Data Collection

Ah yes. The inevitable.

From: Brin, Katherine Race
Sent: Wednesday, May 26, 2010 4:15 PM
To: Ratte, Kathryn D.
Cc: Eichorn, Mark
Subject: Lawsuits Pour in Over Google's Wi-Fi Data Collection

http://www.wired.com/threatlevel/2010/05/google-sued/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+wired%2Findex+%28Wired%3A+Index+3+%28Top+Stories+2%29%29&utm_content=Google+Feedfetcher

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 26, 2010 12:43 PM
To: Brin, Katherine Race
Subject: RE: Emailing: Google WiFi meeting notes 5.25.10

Thanks - looks very comprehensive! I will check it against my notes and see if I have anything to add. I'll just put them directly in the document, unless you'd prefer to receive a series of awkward emails. :)

-----Original Message-----
From: Brin, Katherine Race
Sent: Wednesday, May 26, 2010 12:39 PM
To: Ratte, Kathryn D.
Subject: Emailing: Google WiFi meeting notes 5.25.10

Here are my notes (also saved in our folder). I tried to organize them in a way that made sense, but they are still a bit all over the place. Let me know if there is anything I forgot...

The message is ready to be sent with the following file or link attachments:

Google WiFi meeting notes 5.25.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 3:50 PM
To: Rich, Jessica L.; Eichorn, Mark; Kaufman, Daniel
Cc: Mithal, Maneesha; Brin, Katherine Race
Subject: RE: Draft responses to Consumer Watchdog complaint and to Reps. Markey and Barton correspondence on Google Wifi
Attachments: Vladeck response to Consumer Watchdog letter re Google WiFi_kdr edits.wpd

Thanks Jessica – updated version incorporating your edit is attached.

From: Rich, Jessica L.
Sent: Tuesday, May 25, 2010 3:31 PM
To: Eichorn, Mark; Kaufman, Daniel
Cc: Mithal, Maneesha; Brin, Katherine Race; Ratte, Kathryn D.
Subject: Re: Draft responses to Consumer Watchdog complaint and to Reps. Markey and Barton correspondence on Google Wifi

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission

From: Eichorn, Mark
To: Kaufman, Daniel
Cc: Mithal, Maneesha; Brin, Katherine Race; Ratte, Kathryn D.; Rich, Jessica L.
Sent: Fri May 21 16:50:43 2010
Subject: Draft responses to Consumer Watchdog complaint and to Reps. Markey and Barton correspondence on Google Wifi

The Consumer Watchdog letter was addressed to the Chairman, but we've drafted the response for David's signature.

In the Markey/Barton letter, at OCR's request we noted that we'll be having further discussions on this topic.

Have a good weekend!

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 2:00 PM
To: Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: Google extension letter

No worries – we're set on the letter (and I assumed you didn't mind me signing for you because we had talked about the two-day extension). Al Gidari came in to discuss Street View / Wi-Fi data collection, and he was very good. (b)(5) Katie and I are going to circulate a summary of the meeting later today – (b)(5)

Not Responsive

Corrigan, Sarah E.

From: Ratte, Kathryn D.

Sent: Tuesday, May 25, 2010 1:13 PM

To: Kaufman, Daniel; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race; Sannappa, Nithan; Harrison, Lisa M.; Dawson, Rachel Miller

Subject: revised memo and letters re: cong inquiry into Google Wi-Fi

Attachments: Energy and Commerce Non-Public Briefing on Google WiFi memo 05.24.10.wpd; Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.Barton.wpd; Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.Markey.wpd

Hi everyone,

Attached are new versions of the Commission memo and responses from the Chairman to Markey and Barton's request for a nonpublic briefing on Google Wi-Fi, with OGC edits incorporated. Let me know if anyone has additional edits or questions.

Thanks! Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.

Sent: Tuesday, May 25, 2010 10:23 AM

To: Kaufman, Daniel

Cc: Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race

Subject: draft Commission memo and Chairman response to Markey briefing request

Attachments: Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.Markey.wpd; Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.Barton.wpd; Energy and Commerce Non-Public Briefing on Google WiFi memo 05.24.10.wpd; Letter - Request for Non-Public Briefing - Google - Signed - 5-24-10.pdf

Hi Daniel,

Attached is a draft Commission memo and response from the Chairman to a request from Reps. Barton and Markey for a nonpublic briefing on the Google Wi-Fi data collection / Street View issue. I also attach a copy of the original request. Let me know if you have edits or questions. Thanks! Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 9:57 AM
To: Brin, Katherine Race
Subject: FW: Google's wifi data and its mobile ad plans

Apologies for not forwarding this earlier. (b)(5)
(b)(5)

From: Olsen, Christopher
Sent: Sunday, May 23, 2010 11:36 AM
To: Mithal, Maneesha; Ratte, Kathryn D.; Eichorn, Mark
Subject: Fw: Google's wifi data and its mobile ad plans

Not sure if you got this too.

From: Jeffrey Chester <jchester@starpower.net>
To: Falk (vzbv) Luke <Lueke@vzbv.de>; ebarrau@cnil.fr <ebarrau@cnil.fr>; simon davies <simon@privacy.org>; Gus Hosein <gus@privacy.org>; Marc Rotenberg <rotenberg@epic.org>; Hans Tischler <hans.tischler@bfdi.bund.de>; Peter Eckersley <pde@eff.org>; Eddan Katz <eddan@eff.org>
Cc: sgrant; Ed Mierzwinski <edm@pirg.org>
Sent: Sun May 23 11:32:34 2010
Subject: Google's wifi data and its mobile ad plans

This trade article from UK from end of April shows Google working on expanding local geo-targeting ad efforts. So the expanded collection of wifi data could be linked to the business plans. My bold. Links below include discussion by Google mobile exec at EU Location Summit on its geo targeting plans. I think all this part can be part of wifi data collection context.

Google looks into ways to brings ads to mobile services

29 April 2010 | By Ronan Shields

- Google is looking at ad opportunities within its Google Maps Navigation service despite the Android platform, which launched last week, being ad-free at the moment.

It's understood to be devising ways of monetising its suite of mobile services, such as offering sponsored links on maps, but isn't trialling campaigns with brands at present.

However, following last week's beta launch of Google Maps Navigation, a spokeswoman told new media age it was exploring ways of monetising and improving all of its mobile products. "We're always looking at ways to monetise and improve our products," she said.

Media agencies are also believed to be approaching Google about running campaigns on mobile apps such as Google Goggles and Maps.

James Tagg, head of mobile at Starcom Mediavast, said, "It's something we'd back given the right kind of client. There has been lots of work in progress from Google but no solid propositions yet."

Gavin Deadman, MEC Interaction performance media manager, said, "I think it'll be more of a direct response buy. I doubt it'll be effective as a branding exercise, but it could be effective if costed the right way."

Jon Mew, head of mobile at the IAB, said, "It's going to take a bit of time to attract big advertisers to be honest because you'll have to build a critical mass. However, once they do so they shouldn't struggle too much."

Last month mobile ad network AdMob, which is in the middle of a proposed $750m takeover be Google, said 10% of UK mobile ad traffic come from Google Android users.

http://www.nma.co.uk/news/google-looks-into-ways-to-brings-ads-to-mobile-services/3012852.article

also note Google's German and other EU focus on geo-marketing:

Strategic Partner Development Manager, Geo Content Partnerships - Dusseldorf

This position can be based in Warsaw, Poland; London, UK; Prague, Czech Republic; Zurich, Switzerland; or Dusseldorf, Munich, or Hamburg, Germany.

http://www.google.de/intl/en/jobs/germanylocations/duesseldorf/adsales/

and Google geo/location ad mobile targeting: http://www.gomonews.com/google-doesnt-wow-on-mobile-location-advertising-yet/

Jeffrey Chester
Center for Digital Democracy
www.democraticmedia.org

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 9:49 AM
To: Brin, Katherine Race
Subject: RE: Emailing: Notes for 5-25 WiFi meeting

This looks great - I will take a quick look at my notes and see if I have anything to add (which I doubt - this looks very comprehensive).

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, May 25, 2010 9:35 AM
To: Ratte, Kathryn D.
Subject: Emailing: Notes for 5-25 WiFi meeting

Here is my stab at questions for today's meeting. I incorporated questions raised in the Congressional letter, our conversation with Ashkan, and press reports.

Original doc is saved in the Google folder.

The message is ready to be sent with the following file or link attachments:

Notes for 5-25 WiFi meeting

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 3:16 PM
To: Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi
Attachments: Energy and Commerce Non-Public Briefing on Google WiFi memo 05.24.10.wpd; Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.wpd

(b)(5)

(b)(5) Let me know if you have further edits, and feel free to send to Maneesha if you don't. Thanks!

From: Eichorn, Mark
Sent: Monday, May 24, 2010 2:00 PM
To: Ratte, Kathryn D.
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

(b)(5)

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 1:15 PM
To: Mithal, Maneesha
Cc: Eichorn, Mark; Brin, Katherine Race
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Katie, meant to cc you on this. Also, these are in the "congressional" folder of the K drive under "briefings."

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 1:06 PM
To: Mithal, Maneesha
Cc: Eichorn, Mark
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Here are drafts of the memo to the Commission and the response from the Chairman (b)(5) Please let me know if you have changes, and whether you plan to forward it to OGC/the Bureau/Commission (or if I should forward them to someone).

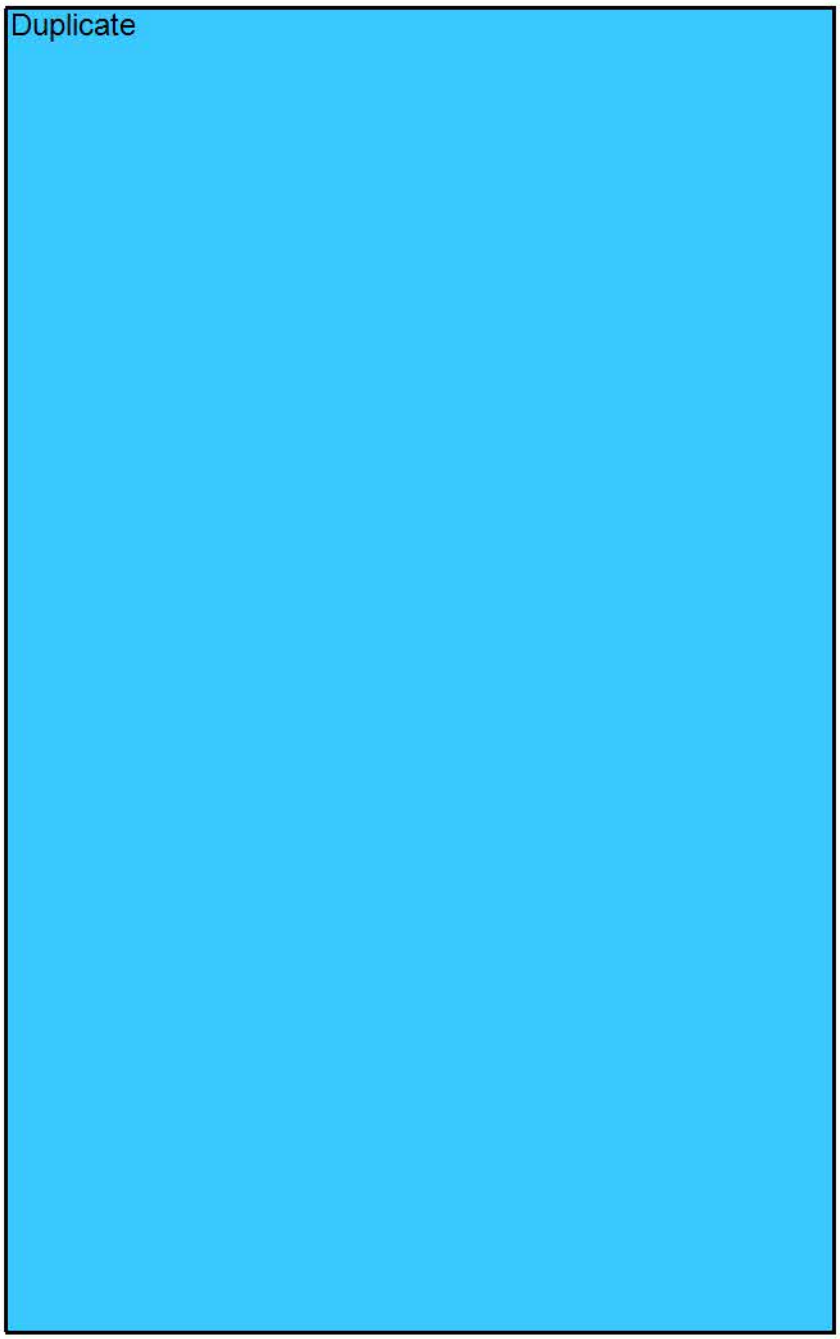
From: Mithal, Maneesha

Sent: Monday, May 24, 2010 12:36 PM
To: Ratte, Kathryn D.
Cc: Eichorn, Mark
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Thanks!

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 12:36 PM
To: Mithal, Maneesha
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

I'll do the cut/paste based on the package you sent me last week and get it to you this afternoon.



Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Monday, May 24, 2010 2:01 PM
To: Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.

Sent: Monday, May 24, 2010 9:54 AM

To: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha

Subject: Google Street View update

Hi everyone,

Jane Horvath got in touch on Saturday to schedule the Street View briefing for tomorrow. She's bringing in Al Gidari, their outside counsel (b)(7)(A) and is now working on Buzz. He's very good, so hopefully we will get some good information from him. I think Katie and I will try to loop in Ashkan by phone if he's available, and we'll let you know how it goes.

Jane also asked for a 48 hour extension on the Buzz production, which Maneesha confirmed would be fine, so I'm going to confirm that by letter today.

(b)(7)(A)

Katie, let's touch base this afternoon on what information we want to get tomorrow. Thanks!

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

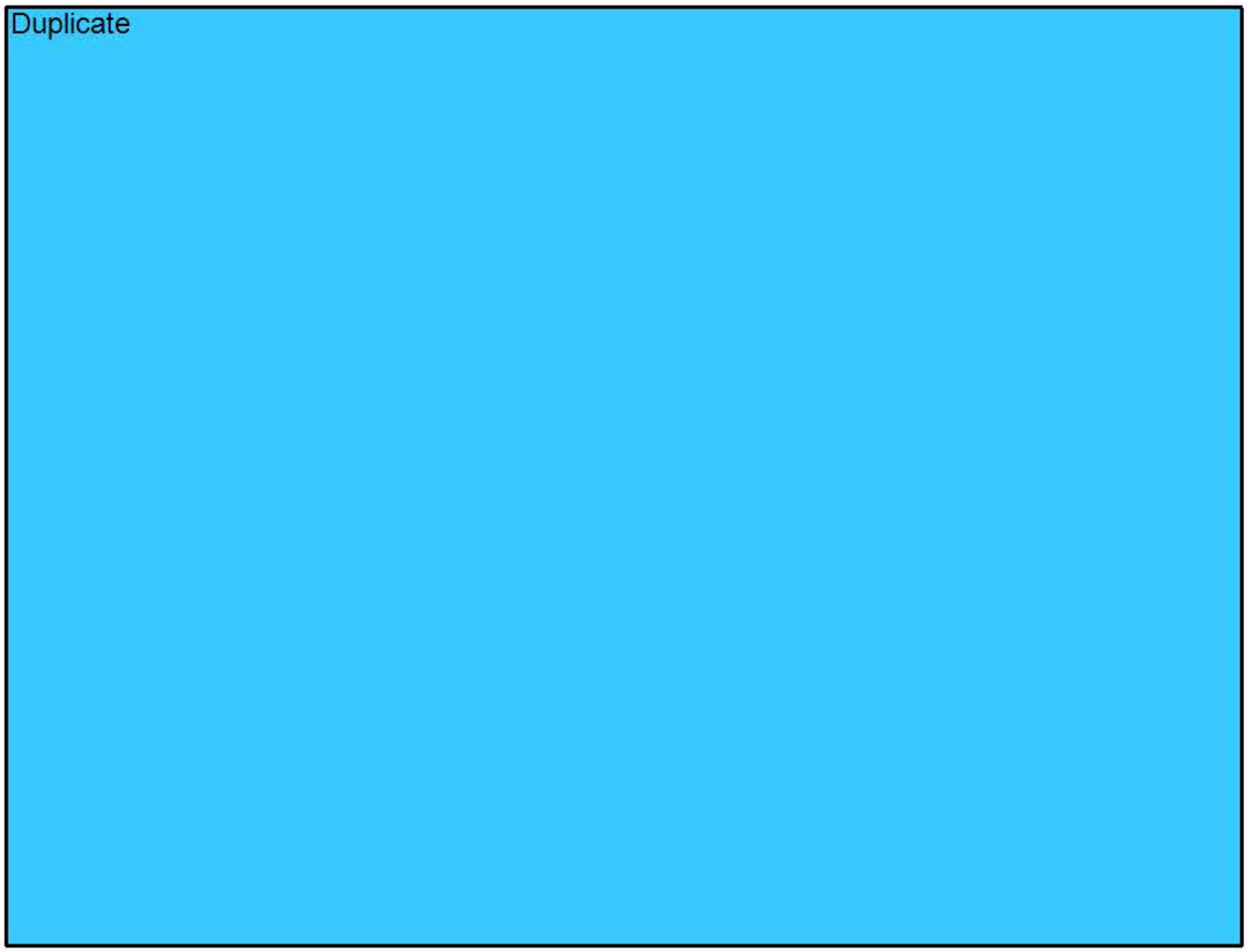
Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Saturday, May 22, 2010 9:50 AM
To: 'Jane Horvath'; Brin, Katherine Race
Subject: RE: Buzz Production

Thanks Jane – we can confirm 11 am Tuesday for the WiFi Street View meeting – I've booked our usual conference room at 601 New Jersey.

As for the two-day extension, I don't think it will be a problem, but I need to check with Maneesha just in case. I suspect I'll hear back from her soon, and I will let you know as soon as I do. If it's okay with her, I can send you a letter Monday confirming June 3 as the new due date.

Katie



Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Friday, May 21, 2010 9:30 AM
To: Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: Emailing: Vladeck response to Consumer Watchdog letter re Google WiFi_kdr edits

Attachments: Vladeck response to Consumer Watchdog letter re Google WiFi_kdr edits.wpd

Vladeck response to Consumer W...

i Mark and Maneesha,

Attached is a response from David to the Consumer Watchdog complaint regarding Google's collection of WiFi information (drafted by Katie RB). We wanted to flag that the original complaint (http://www.consumerwatchdog.org/resources/LTRFTC051710.pdf) was addressed to Leibowitz, but we drafted the response from David because he responds to the other consumer advocate complaints. Let us know if we should draft it for the Chaiman instead. (This should probably go out soon if possible).

Thanks!
Katie and Katie

(b)(5)

(b)(5)

From: Mithal, Maneesha
Sent: Wednesday, May 19, 2010 1:48 PM
To: Eichorn, Mark; Ratte, Kathryn D.; Brin, Katherine Race
Subject: FW: Early Clips 5.19.10

See last article.

From: Prewett, Cecelia
Sent: Wednesday, May 19, 2010 9:21 AM
To: 0101DL; 0102DL; 0103DL; 0104DL; 0105DL; 0208DL; 0309DL; Armstrong, Norman; Brill, Julie; Clark, Donald S.; DeSanti, Susan; Engle, Mary Koelbel; Farrell, Joseph; Feinstein, Richard; Greisman, Lois C.; Harwood, Charles A.; Kaufman, Daniel; Kohm, James A.; Levitas, Pete; Mithal, Maneesha; Rich, Jessica L.; Schneider, Charles; Shanoff, Carolyn; Tabor, April; Tom, Willard K.; Torok, David M.; Tritell, Randolph W.; Vladeck, David; Winston, Joel
Subject: Early Clips 5.19.10

WSJ: Facebook Grapples With Privacy Issues
Reuters: Google to fight government if AdMob deal blocked
USAT: Protests widen over Google's Wi-Fi data harvesting
MAY 19, 2010

Not Responsive

USA Today

Protests widen over Google's Wi-Fi data harvesting

07:43 PM

Canadian regulators said on Tuesday they will contact officials in nine other nations to

discuss Google's collection of citizens' data transmitted over open Wi-Fi systems.

"We are shocked and deeply concerned about this," says Anne-Marie Hayden, spokesperson for Canadian Privacy Commissioner Jennifer Stoddard. "We're in touch with our international counterparts to examine next steps that could include enforcement action."

At issue is Google's recent disclosure <http://googleblog.blogspot.com/2010/05/wifi-data-collection-update.html> that it has been using a practice known as "war driving" <http://en.wikipedia.org/wiki/Wardriving> to gather data moving across unprotected Wi-Fi networks in homes and businesses across North America, Europe, Australia and Asia. Since 2007, the company has dispatched photographers in vehicles to take snapshots of street scenes in major cities for use in Google maps. But cars were also equipped to capture Wi-Fi signals within range of the vehicle.

After German officials inquired about this practice, Google on April 27 said it was collecting <http://googlepolicyeurope.blogspot.com/2010/04/data-collected-by-google-cars.html> only basic Wi-Fi information. But on Friday Google admitted <http://googlepolicyeurope.blogspot.com/> that it also has been erroneously collecting personal data transmitted by Wi-Fi networks. It grounded the cars and apologized.

"Maintaining people's trust is crucial to everything we do, and in this case we fell short," Alan Eustace, senior vice-president of engineering and research, says in a blog post.

Google already has heeded a request by Ireland to destroy any personal data of Irish citizens collected.

Meanwhile, the U.S. Federal Trade Commission is reviewing a letter from advocacy group Consumer Watchdog calling for <http://www.consumerwatchdog.org/corporateering/articles/?storyId=34304> a federal probe of Google's data harvesting practices. "They said they weren't doing this, then a month later they claimed they were doing it, but it was by mistake," says John Simpson, spokesman for the group.

By Byron Acohido

Corrigan, Sarah E.

From: Ratte, Kathryn D.

Sent: Thursday, May 20, 2010 9:49 PM

To: Mithal, Maneesha; Brin, Katherine Race

Subject: Re: Wire Stories from today's Approps Hearings + WSJ story "Bloggers Aim Posts at Antitrust Investigators"

: (I hope this doesn't have any impact on their willingness to come in on Tuesday (they still haven't confirmed...)

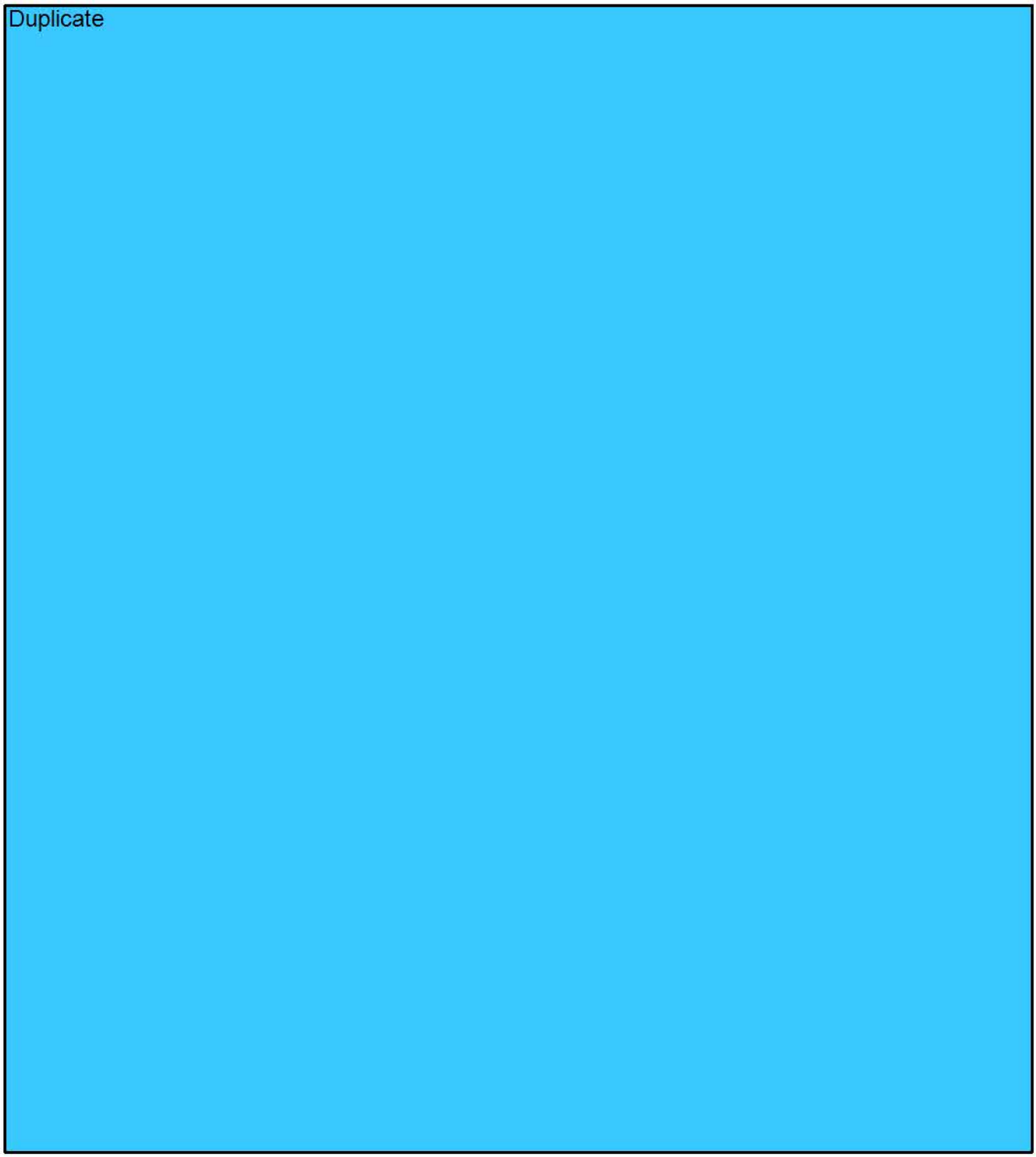
From: Mithal, Maneesha
To: Ratte, Kathryn D.; Brin, Katherine Race
Sent: Thu May 20 20:53:11 2010
Subject: FW: Wire Stories from today's Approps Hearings + WSJ story "Bloggers Aim Posts at Antitrust Investigators"

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Tuesday, October 26, 2010 2:15 PM
To: Ratte, Kathryn D.
Subject: RE: Google wi-fi letter

Ok – sounds like plan.



Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Thursday, May 20, 2010 10:59 AM
To: 'Jane Horvath'
Cc: 'Will DeVries'; Brin, Katherine Race
Subject: RE: (b)(5)

Tuesday would be great. Other than 12-1, our calendars are clear. Thanks very much.

(b)(5)

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 19, 2010 2:29 PM
To: Brin, Katherine Race
Subject: FW: Early Clips 5.19.10

KT – if you have time, do you want to try to draft something in response to Consumer Watchdog? If not, I can do it tomorrow or Friday. I'm happy to draft the cong response as well, unless you'd prefer to take a swing at that one. I realize you only have hours before your vacation, so no big deal if you don't have time.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 19, 2010 2:23 PM
To: Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark
Subject: RE: Early Clips 5.19.10

Thanks Katie – secretly, I hoped the answer was "no." ☺ We'll divide them up and get you drafts soon.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Wednesday, May 19, 2010 1:50 PM
To: Brin, Katherine Race
Subject: RE: Hot Letter from Reps. Markey and Barton

(b)(5)

From: Brin, Katherine Race
Sent: Wednesday, May 19, 2010 1:47 PM
To: Ratte, Kathryn D.
Subject: RE: Hot Letter from Reps. Markey and Barton

(b)(5)

From: Ratte, Kathryn D.
Sent: Wednesday, May 19, 2010 12:56 PM
To: Brin, Katherine Race
Subject: FW: Hot Letter from Reps. Markey and Barton

FYI – more excitement. I left a message for Maneesha and will keep you posted on what the briefing requests are.

Duplicate

Corrigan, Sarah E.

From: Ratte, Kathryn D.

Sent: Tuesday, May 18, 2010 5:46 PM

To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark; Weinman, Yael; Heyder, Markus B.; Brin, Katherine Race

Subject: Fw: Today's Interactive Technology Daily Digest

See blurb on Google Street View below (b)(5)

From: Hasty, Andrew
To: ITTF-Daily-DL
Sent: Tue May 18 17:43:32 2010
Subject: Today's Interactive Technology Daily Digest

Hello All,

The Kindle app is officially coming to Android phones this summer; Best Buy will begin selling movies and television shows online later this month through a service called "CinemaNow"; the UK announced that it would not investigate Google over the data that was collected by Google's Street View cars (Germany has called for a detailed probe of the incident); and several new 3rd party applications attempt to help Facebook users effectively implement Facebook's privacy controls… Read on for more information, and for more news!

Not Responsive

Google and Privacy:

- http://www.pcworld.com/article/196590/uk_wont_investigate_google_over_wifi_snooping.html - The UK's Information Commissioner's Office has announced that it will not investigate Google over the recent revelation that its Street View cars have been mistakenly collecting data from unsecured Wi-Fi networks…
    - http://arstechnica.com/tech-policy/news/2010/05/google-expected-to-get-probed-thanks-to-wifi-data-collection.ars - but the German commissioner for data protection (Peter Schaar) has asked for a detailed probe of the incident, and Consumer Watchdog has demanded that the FTC look into the issue…

Not Responsive

Corrigan, Sarah E.

From: Ratte, Kathryn D.
Sent: Tuesday, May 18, 2010 1:57 PM
To: Soltani, Ashkan; Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: RE: meeting with Jane

Removing Jessica (who gets too many emails). Tomorrow sounds better – I will probably head home around 4 today, but I should be up and at em again tomorrow (even if I'm teleworking).

From: Soltani, Ashkan
Sent: Tuesday, May 18, 2010 1:56 PM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha; Rich, Jessica L.
Cc: Brin, Katherine Race
Subject: RE: meeting with Jane

Yes and yes (schedule is open today/tomorrow with the exception of the other google call today @ 5pm EST)
-a

From: Ratte, Kathryn D.
Sent: Tuesday, May 18, 2010 1:55 PM
To: Soltani, Ashkan; Eichorn, Mark; Mithal, Maneesha; Rich, Jessica L.
Cc: Brin, Katherine Race
Subject: RE: meeting with Jane

Yes – that would be very helpful. Once Jane gets back to us, perhaps we could schedule a call in advance of the Google meeting. Katie is in a meeting until 3, but I will talk to her about a time when she's done. Are you mostly available this afternoon and tomorrow?

(b)(5)

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Tuesday, October 26, 2010 8:28 PM
To: Ratte, Kathryn D.; Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark
Subject: Re: WiFi letter

You guys did a great job on this.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Monday, October 25, 2010 4:23 PM
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: call with Google's counsel

Great. I don't think the email has gone to the attorney advisors yet, so this will go out tomorrow at the earliest.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

Duplicate

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Monday, October 25, 2010 9:14 AM
To: Ratte, Kathryn D.; Mithal, Maneesha
Cc: Brin, Katherine Race; Eichorn, Mark; Glassman, Mark
Subject: Re: Google wi-fi - heads up for Monday

I think just include in talking pts for opa
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Monday, October 25, 2010 11:47 AM
To: Mithal, Maneesha; Eichorn, Mark; Ratte, Kathryn D.
Subject: Emailing: Vladeck Google WiFi letter 10.25.10

Attachments: Vladeck Google WiFi letter 10.25.10.wpd

Vladeck Google WiFi letter 10....

Here is the letter (b)(5)

(b)(5)

The message is ready to be sent with the following file or link attachments:

Vladeck Google WiFi letter 10.25.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Tuesday, September 21, 2010 6:09 PM
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race; Matz, Bethany E.
Subject: RE: Google Wi-Fi

(b)(5)

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Ratte, Kathryn D.
Sent: Tuesday, September 21, 2010 5:07 PM
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: Google Wi-Fi

Hi everyone,

(b)(5)

(b)(5) France, the UK, and New Zealand, among others, concluded that the data was very fragmented and would require quite a bit of work to associate to a particular user. (b)(5)

(b)(5)

Thanks! Katie and Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Tuesday, July 27, 2010 5:29 PM
To: 'David Tannenbaum'
Cc: Mithal, Maneesha; Ratte, Kathryn D.; Eichorn, Mark; Olsen, Christopher; Singh, Pavneet; Brin, Katherine Race
Subject: RE: Google wifi

Not Responsive

As to Google WiFi, the person to contact is Katie Ratte, the lead attorney on the matter. 202-326-2148, kratte@ftc.gov I am also cc'ing the key staff attorney on the matter(Katie Brin) and the director and assistant director of the privacy division (Maneesha Mithal and Mark Eichorn).

Non Responsive

-----Original Message-----
From: David Tannenbaum [mailto:David.Tannenbaum@fcc.gov]
Sent: Tuesday, July 27, 2010 4:56 PM
To: Rich, Jessica L.
Subject: RE: Google wifi

Not Responsive

2) Our enforcement bureau is interested in touching base with the FTC on the Google spy-fi incident. Who should they contact?

Thanks!

David

-----Original Message-----
From: Rich, Jessica L. [mailto:JRICH@ftc.gov]
Sent: Tuesday, July 27, 2010 12:41 PM
To: David Tannenbaum
Subject: RE: Google wifi

I can't - sorry!

Anything we're doing (or not doing) on this is nonpublic and I can only discuss if we are coordinating law enforcement.

I can say that our Chairman has commented in the press that we are aware/interested in the issue (it's been in the press) but can't confirm or deny that we are investigating.

-----Original Message-----
From: David Tannenbaum [mailto:David.Tannenbaum@fcc.gov]
Sent: Tuesday, July 27, 2010 12:02 PM
To: Rich, Jessica L.
Subject: Google wifi

Jessica, I think Kerry is going to ask what the two agencies are going to do about google spy fi and how we would handle agency authority. Can u fill me in on what you all are doing. Or call my cell?

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Wednesday, June 30, 2010 11:44 AM
To: Ratte, Kathryn D.; Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: Re: For David Vladeck's update

Thanks! Let me know what you learn at 4.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission

Duplicate

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Tuesday, May 18, 2010 2:06 PM
To: Soltani, Ashkan; Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: RE: meeting with Jane

That's very helpful Ashkan. (b)(5)

Duplicate

Corrigan, Sarah E.

From: Schafer, Scott (AGO) [Scott.Schafer@state.ma.us]
Sent: Thursday, June 03, 2010 1:00 PM
To: Brin, Katherine Race; 'Schafer, Scott (AGO)'; Ratte, Kathryn D.
Cc: 'Nielsen, Christine'
Subject: RE: Google WiFi

Here is call-in information for our 4:00 p.m. call on June 7, 2010. I am assuming Eastern Time. If I am incorrect, please let me know.

The meet-me number can conference up to six callers. The instructions for all callers are to call the number, wait for the prompt, and enter the passcode.

617-963-2997 Passcode: 147258

Scott

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Thursday, June 03, 2010 11:27 AM
To: 'Schafer, Scott (AGO)'; Ratte, Kathryn D.
Cc: 'Nielsen, Christine'
Subject: RE: Google WiFi

Setting up a conference call number probably would be easier. Thanks.

From: Schafer, Scott (AGO) [mailto:Scott.Schafer@state.ma.us]
Sent: Thursday, June 03, 2010 11:26 AM
To: Brin, Katherine Race; 'Schafer, Scott (AGO)'; Ratte, Kathryn D.
Cc: 'Nielsen, Christine'
Subject: RE: Google WiFi

Will both Christine and I be able to call into that number as we will be calling from different locations?

Otherwise, I can set up a conference call number.

Scott

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Thursday, June 03, 2010 11:24 AM
To: 'Schafer, Scott (AGO)'; Ratte, Kathryn D.
Cc: 'Nielsen, Christine'
Subject: RE: Google WiFi

Great. Why don't you give us a call at 4 pm on Monday. You can reach us at Katie Ratté's number: 202-326-3514.

Talk to you then.
Katie Race Brin

From: Schafer, Scott (AGO) [mailto:Scott.Schafer@state.ma.us]
Sent: Thursday, June 03, 2010 10:50 AM
To: Ratte, Kathryn D.; 'Schafer, Scott (AGO)'; Brin, Katherine Race
Cc: 'Nielsen, Christine'
Subject: RE: Google WiFi

Yes. That works for me as well.

Scott

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Thursday, June 03, 2010 10:48 AM
To: 'Schafer, Scott (AGO)'; Brin, Katherine Race
Cc: 'Nielsen, Christine'
Subject: RE: Google WiFi

Hi Scott – I have a meeting from 2:30 until about 4, but I'm otherwise pretty clear that afternoon. Would 4 pm EST work for you?

Thanks,
Katie Ratté

From: Schafer, Scott (AGO) [mailto:Scott.Schafer@state.ma.us]
Sent: Thursday, June 03, 2010 10:47 AM
To: Brin, Katherine Race; 'Scott.Schafer@state.ma.us'
Cc: Ratte, Kathryn D.; Nielsen, Christine
Subject: RE: Google WiFi

Katie –

Thank you on following up on my request to Lori Garrison. Would 3:00 p.m. EST work for you on Monday, June 7, 2010? It works both for me and my colleague in Illinois Christine Nielsen who I have copied on this communication.

Scott Schafer

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Thursday, June 03, 2010 10:30 AM
To: 'Scott.Schafer@state.ma.us'
Cc: Ratte, Kathryn D.
Subject: Google WiFi

Hi Scott. I just left you a voicemail following up on your request to Lori Garrison regarding the FTC's examination of the recent incident regarding Google's collection of WiFi data. My colleague, Katie Ratté, and I are the attorneys looking into this matter and would be happy to answer any questions you may have.

Please let me know a time that works for you either this week or next, and we can call you then.

Best,
Katie

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Shanoff, Carolyn
Sent: Monday, October 25, 2010 1:40 PM
To: Mithal, Maneesha; Rich, Jessica L.; Eichorn, Mark; Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: talking points on wifi letter

I'm fine with these. (b)(5)

(b)(5)

Carolyn S. Shanoff
Associate Director, Consumer and Business Education
Bureau of Consumer Protection
Federal Trade Commission
202.326.3268

Duplicate

Corrigan, Sarah E.

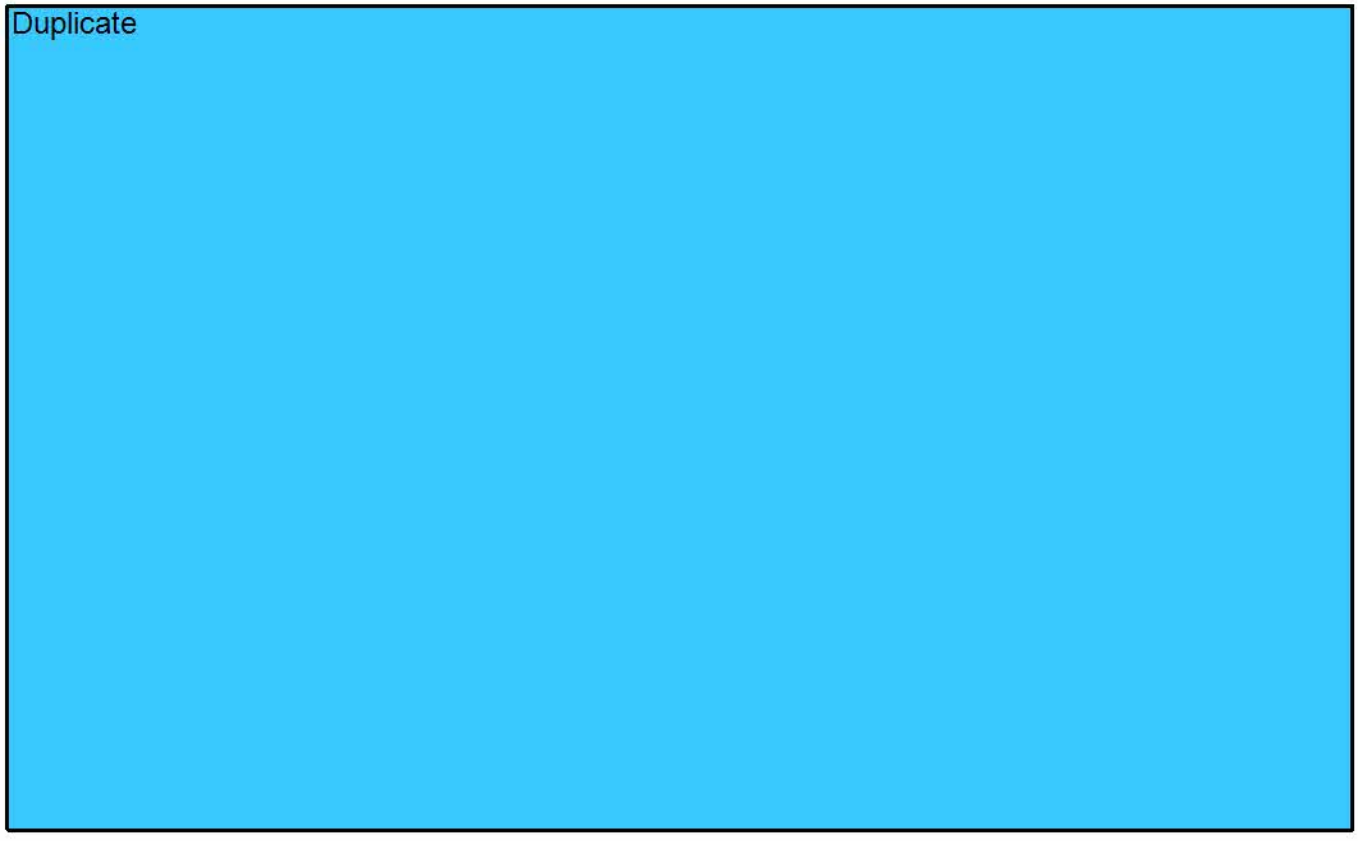
From: Shanoff, Carolyn
Sent: Monday, October 25, 2010 9:44 AM
To: Mithal, Maneesha
Cc: Wood, Nathaniel C.; Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark; Rich, Jessica L.
Subject: RE: Google wi-fi - heads up for Monday

Hi Maneesha -- It would be great to see the letter. You know that all our wireless security stuff is on OnguardOnline.gov/wireless ... It's a very nice package that includes a game, a video, Quick Facts, and a pretty detailed fact sheet. We can give you a couple of "consumer" talking points on the subject ... just let us know when you need them. c

Carolyn S. Shanoff
Associate Director, Consumer and Business Education
Bureau of Consumer Protection
Federal Trade Commission
202.326.3268

From: Mithal, Maneesha
Sent: Sunday, October 24, 2010 10:25 PM
To: Shanoff, Carolyn
Subject: Fw: Google wi-fi - heads up for Monday

Hi - you may want to start reading from the bottom up! Talk to you tomorrow...



Corrigan, Sarah E.

From: Solivan, Jackeline
Sent: Thursday, July 29, 2010 8:40 AM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

Katie – I'm very glad you found it useful! I do have hard copies and will interoffice them to you. Thank you!

Jackeline Solivan
Summer Law Clerk
Federal Trade Commission
600 Pennsylvania Ave. NW, H-251
Washington, D.C. 20580
(202) 326-2929
jsolivan@ftc.gov

From: Brin, Katherine Race
Sent: Wednesday, July 28, 2010 4:41 PM
To: Solivan, Jackeline
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

Jackeline: This is awesome! Thanks so much for the fabulous job you did with the memo and spreadsheet. Everything is very clearly laid out. Well done!

Do you have hard copies of all the complaints? If so, could you interoffice them over to me – I'm at NJ-8163.

Thanks again for all your hard work and enjoy the rest of your summer!

Katie

From: Solivan, Jackeline
Sent: Friday, July 23, 2010 5:43 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

Katie Brin & Katie Ratte,

(b)(5)

I hope this helps!

Jackeline Solivan
Summer Law Clerk
Federal Trade Commission

600 Pennsylvania Ave. NW, H-25I
Washington, D.C. 20580
(202) 326-2929
jsolivan@ftc.gov

From: Brin, Katherine Race
Sent: Wednesday, July 21, 2010 11:03 AM
To: Solivan, Jackeline
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

Ok. As long as we have the memo with enough time to read it and ask you any questions we may have before you leave, that is fine.

Thanks!

From: Solivan, Jackeline
Sent: Wednesday, July 21, 2010 10:10 AM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

Thank you. My last day will be July 29, 2010.

Jackeline Solivan
Summer Law Clerk
Federal Trade Commission
600 Pennsylvania Ave. NW, H-25I
Washington, D.C. 20580
(202) 326-2929
jsolivan@ftc.gov

From: Brin, Katherine Race
Sent: Wednesday, July 21, 2010 10:08 AM
To: Solivan, Jackeline
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

No worries at all, Jackeline. Whenever you can get us the memo, that's fine. When is your last day?

(b)(5)

From: Brin, Katherine Race
Sent: Monday, July 19, 2010 10:03 AM
To: Solivan, Jackeline
Cc: Ratte, Kathryn D.
Subject: RE: Law Clerk Assignment

Hi Jackeline. We are in the process of going through the Buzz production, and I came across the attached class action complaints. This isn't necessarily all of them, but I wanted to these send you these in case you hadn't seen these particular complaints.

Please let us know if you have any questions as you work on this assignment.

Thanks!
Katie

From: Solivan, Jackeline
Sent: Monday, July 12, 2010 9:31 AM
To: Brin, Katherine Race
Subject: Law Clerk Assignment

Ms. Brin,

I was given the law clerk assignment you requested (researching any pending litigation regarding privacy concerns with Google buzz and privacy concerns with Google's collection of WiFi data). I just called to see if you wanted to discuss the assignment, but reached your voicemail. Please feel free to call me at your convenience.

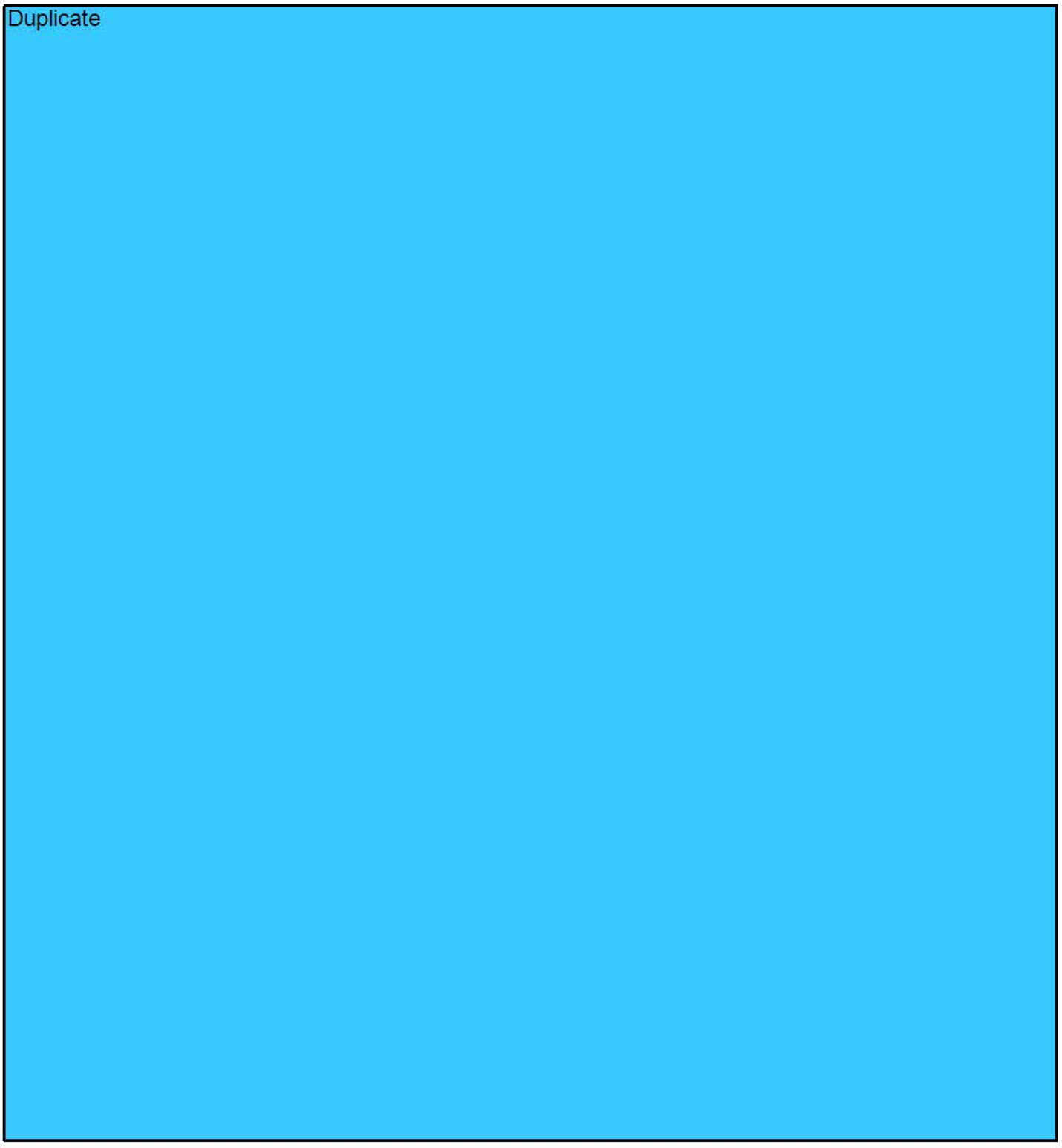
Thank You,

Jackeline Solivan
Summer Law Clerk
Federal Trade Commission
600 Pennsylvania Ave. NW, H-251
Washington, D.C. 20580
(202) 326-2929
jsolivan@ftc.gov

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Monday, October 25, 2010 10:50 AM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha; Rich, Jessica L.
Subject: RE: Google wi-fi - heads up for Monday

And the state AGs are thinking of pursuing a case.



Corrigan, Sarah E.

From: Soltani, Ashkan
Sent: Thursday, May 27, 2010 12:38 PM
To: Brin, Katherine Race
Subject: RE: Google WiFi

yep. just call my cell: (b)(6)

-a

From: Brin, Katherine Race
Sent: Thursday, May 27, 2010 11:30 AM
To: Soltani, Ashkan
Cc: Ratte, Kathryn D.
Subject: Google WiFi

Hi Ashkan. We're having a pow-wow with Maneesha and Mark about Google WiFi today at 1. Are you available to participate?

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Corrigan, Sarah E.

From: Soltani, Ashkan
Sent: Tuesday, May 18, 2010 4:18 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: RE: meeting with Jane

Great.

BTW - google io is also kicking off tomorrow.

(b)(5)

-a

From: Brin, Katherine Race
Sent: Tuesday, May 18, 2010 4:14 PM
To: Soltani, Ashkan; Ratte, Kathryn D.
Subject: RE: meeting with Jane

Thanks, talk to you tomorrow!

From: Soltani, Ashkan
Sent: Tuesday, May 18, 2010 4:14 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: RE: meeting with Jane

(b)(6)

From: Brin, Katherine Race
Sent: Tuesday, May 18, 2010 4:13 PM
To: Soltani, Ashkan; Ratte, Kathryn D.
Subject: RE: meeting with Jane

Great – can you send me your cell # again?

From: Soltani, Ashkan
Sent: Tuesday, May 18, 2010 4:13 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: RE: meeting with Jane

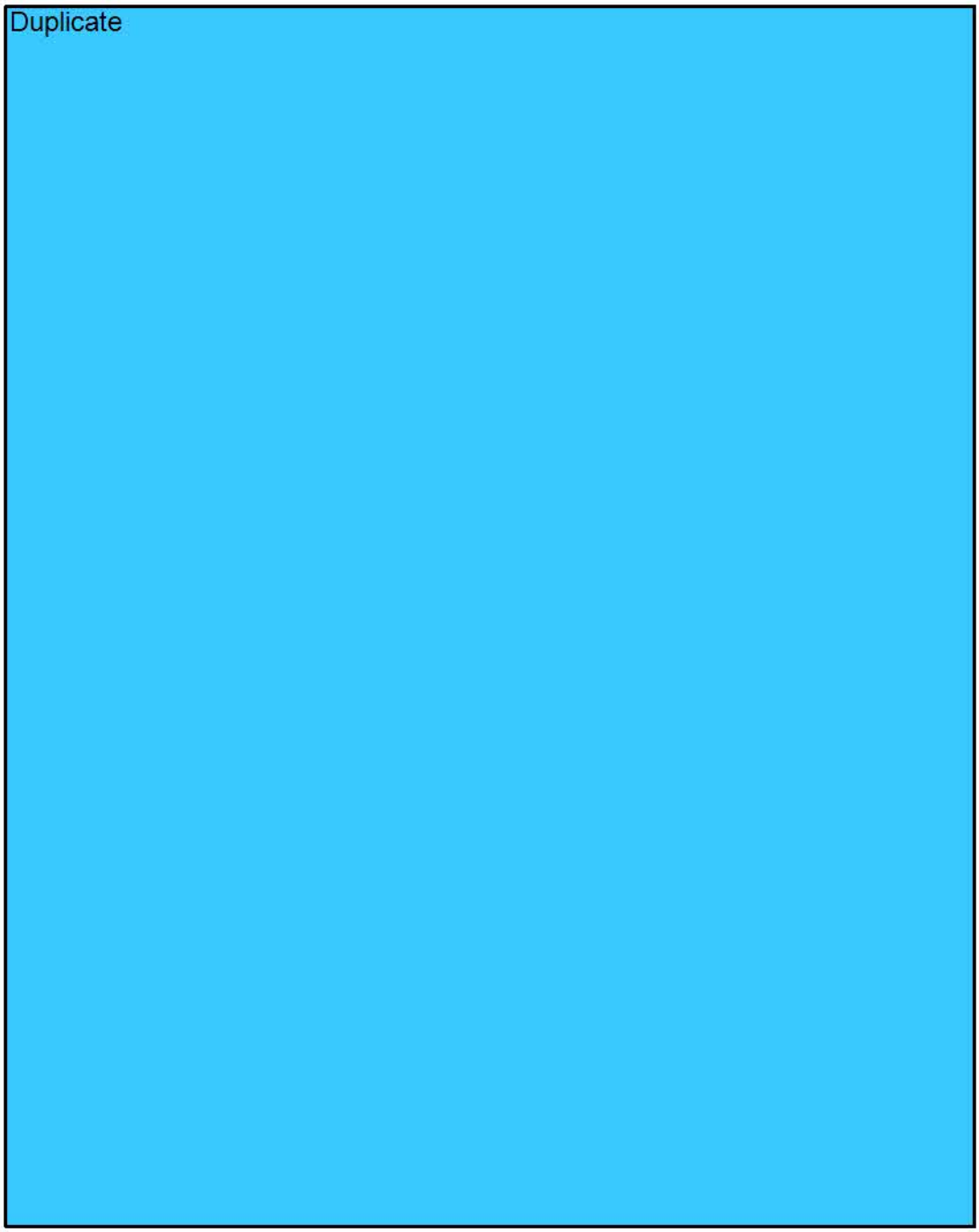
Ya 12EST is fine.

I'd love to give you guys a demo but that might be difficult over the phone/webex. For now, maybe we can just cover the points on the phone.

-a

From: Brin, Katherine Race
Sent: Tuesday, May 18, 2010 4:11 PM
To: Ratte, Kathryn D.; Soltani, Ashkan
Subject: RE: meeting with Jane

Does noon tomorrow work for you, Ashkan?



Corrigan, Sarah E.

From: Stack, Laura
Sent: Monday, June 07, 2010 8:45 AM
To: Olsen, Christopher; Brin, Katherine Race; Ratte, Kathryn D.; Berger, Laura; Han, Cora Tung
Subject: FYI - google wifi, FB

I am sure you know about this already.

9 PVLR 828
Internet
House Judiciary Chair Queries Facebook
On Data-Sharing, Google on WiFi Collection
The head of the House Judiciary Committee May 28 waded into two of the largest internet privacy controversies of the moment—social networking leader Facebook Inc.'s sharing of user data with third parties and web giant Google Inc.'s collection in its Street View mapping program of data sent over unsecured wireless networks.
House Judiciary Chairman John Conyers (D-Mich.) sent a letter to Facebook and a separate letter to Google demanding explanations of their actions and what efforts they are undertaking to ensure that user privacy is protected and personal data secured.
"Companies such as Facebook and Google provide innovative services that enrich and expand the constantly evolving Internet," Conyers said in a statement. "I want to ensure that privacy concerns are as paramount as creativity to these and all internet companies, and I look forward to hearing about ways they can ensure this is the case."
Facebook Data Sharing
Conyers asked Facebook to explain what user information the company has provided to third parties without the knowledge of account holders and with whom such data was shared.
He also asked the company to explain how a new set of privacy policies that it has announced differs from past practices, including whether the burden is on the user to opt in or opt out of relevant privacy settings.
The letter comes amid growing concerns that Facebook has made it easier in recent months for third parties to obtain access to users' personal data, without providing adequate privacy safeguards. Some have called for the Federal Trade Commission to open an investigation (9 PVLR 629, 5/3/10).
At an April 21 developers conference in San Francisco, Facebook Chief Executive Officer Mark Zuckerberg announced the launch of a Facebook tool dubbed "Instant Personalization," which allows users to quickly share the bulk of their personal profile information with third-party sites. The default setting for the service allows sharing, and users must opt-out of allowing their data to be shared by changing their privacy settings.
Acknowledging that the company is "far from perfect," Zuckerberg May 26 announced a series of privacy policy changes (9 PVLR 791, 5/31/10).
Facebook spokesman Andrew Noyes said June 1 that the firm looks forward to meeting with Conyers' staff "to explain our industry-leading privacy practices and the powerful privacy tools we began rolling out last week."
Google WiFi Collection
Conyers' letter to Google focused on its admission that it had collected WiFi location and transmission content information during its Street View mapping program (9 PVLR 770, 5/24/10).
In his letter to Google, Conyers said it had come to the committee's attention that the Street View breach may be the subject of federal and state inquiries. He asked the company to retain any data that has been collected through Street View, as well as any related records, "until such time as review of this matter is

complete."
In addition, he asked Google to implement "any safeguards necessary to prevent further dissemination of this information."
A Google spokeswoman told BNA June 1 that the company is "working with the relevant authorities to answer their questions and concerns."
Conyers noted that his panel oversees the enforcement of federal wiretap, computer access, and electronic communications privacy laws. On May 5, the House Judiciary Subcommittee on the Constitution, Civil Rights, and Civil Liberties began a review of the Electronic Communications Privacy Act (9 PVLR 660, 5/10/10).
Meanwhile, the Office of the Privacy Commissioner of Canada June 1 announced that it has opened a formal investigation of Google Inc.'s collection of WiFi data (*see related report in this issue*).

Corrigan, Sarah E.

From: Stack, Laura
Sent: Wednesday, June 02, 2010 4:22 PM
To: Brin, Katherine Race
Subject: RE: May 31 -- BNA, Inc. Privacy & Security Law Report
Attachments: google wifi suits.pdf

9 PVLR 790
Internet
EPIC Asks FCC to Probe Google WiFi Issue, Alleges Collection Violated Wiretap Act, ECPA
The Electronic Privacy Information Center has sent a letter to the Federal Communications Commission urging the agency to investigate Google Inc.'s collection through its Street View mapping program of data sent over unsecured wireless networks, EPIC announced May 24.
EPIC charged in the letter to FCC Chairman Julius Genachowski that Google's actions in intercepting and collecting WiFi data violated the federal Wiretap Act, 18 U.S.C. §§ 2511 and the Electronic Communications Privacy Act, 18 U.S.C. § 2510.
EPIC said that at no time during some three years of discussions on privacy issues before Google began implementing Street View did the firm disclose that it would be collecting WiFi location data, let alone content data. The group said that Google's privacy issues web page on Street View does not mention the collection of WiFi data. Google's contemporaneous collection of electronic transmissions could well be a violation of the Wiretap Act, as modified by ECPA, the letter said. EPIC said it appeared Google had violated the Communications Act's prohibition on the nonconsensual interception of radio communications, 47 U.S.C. § 605.
Under Section 705 of the Communications Act, first time violators can be sanctioned with fines of up to $50,000 and a prison term of up to two years for using unlawfully intercepted communications for commercial gain, EPIC wrote.
EPIC's assertions mirrored those in a complaint filed in the U.S. District Court for the District of Oregon by a putative class of Oregon and Washington residents alleging Google violated the Wiretap Act by collecting through its Street View program their personal information sent over unsecured WiFi networks (9 PVLR 771, 5/24/10).
At least two other class action complaints have also been filed against Google related to the Street View WiFi data collection (*see related report in this issue*).

The other is attached. Enjoy!

From: Brin, Katherine Race
Sent: Wednesday, June 02, 2010 3:54 PM
To: Stack, Laura
Subject: RE: May 31 -- BNA, Inc. Privacy & Security Law Report

Hi Laura. Do you mind sending me the two articles about Google WiFi? Thanks!

From: Stack, Laura
Sent: Wednesday, June 02, 2010 1:05 PM
To: 1154DL
Subject: FW: May 31 -- BNA, Inc. Privacy & Security Law Report

FYI. Let me know if you'd like any of these articles.

From: BNA Highlights [mailto:bhighlig@bna.com]
Sent: Friday, May 28, 2010 4:07 AM
To: Stack, Laura
Subject: May 31 -- BNA, Inc. Privacy & Security Law Report

Not Responsive

Internet

EPIC Asks FCC to Probe Google WiFi Issue, Alleges Collection Violated Wiretap Act, ECPA

The Electronic Privacy Information Center has sent a letter to the Federal Communications Commission urging the agency to investigate Google Inc.'s collection through its Street View mapping program of data sent over unsecured wireless...

Not Responsive

Not Responsive

Internet

WiFi Firm Sues Google Over Data Collection; Separate Court Issues Data Destruction TRO

Google Inc. is facing mounting legal challenges after its recent admission that it collected location and content data from unsecured wireless computer networks while taking digital photographs for its Street View mapping project, including...

Not Responsive

Corrigan, Sarah E.

From: Suzanne Tetreault [Suzanne.Tetreault@fcc.gov]
Sent: Monday, October 25, 2010 7:42 AM
To: Brin, Katherine Race
Subject: RE: follow-up to our conversation about Google

Thanks Katie. If you want to give me a call, I can let you know what we're doing.

Suzanne
(b)(6)

Duplicate

Corrigan, Sarah E.

From: Suzanne Tetreault [Suzanne.Tetreault@fcc.gov]
Sent: Tuesday, August 03, 2010 12:18 PM
To: Brin, Katherine Race
Subject: RE: FCC/FTC Coordination on privacy issues

Thanks – can I call you around 1:30?

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Tuesday, August 03, 2010 11:59 AM
To: Suzanne Tetreault; Ratte, Kathryn D.
Subject: RE: FCC/FTC Coordination on privacy issues

Hi Suzanne. Katie R. is out of the office today, but I'd be happy to speak with you about this issue. I'm around most of the afternoon.

From: Suzanne Tetreault [mailto:Suzanne.Tetreault@fcc.gov]
Sent: Tuesday, August 03, 2010 11:46 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: FCC/FTC Coordination on privacy issues

Are you available to talk this afternoon (other than between 2 and 3)? If not, I may just call Katie, as folks here have been asking me if I've spoken to you yet.

Thanks,
Suzanne

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Friday, July 30, 2010 9:32 PM
To: Suzanne Tetreault
Cc: Brin, Katherine Race
Subject: RE: FCC/FTC Coordination on privacy issues

Suzanne – I will actually be out of the office on Monday (last-minute family business out of town), but perhaps we could set up a call later in the week? If you need information right away, I'm sure Katie Race Brin, copied here, can fill you in.

Thanks,
Katie

From: Suzanne Tetreault [mailto:Suzanne.Tetreault@fcc.gov]
Sent: Friday, July 30, 2010 5:19 PM
To: Ratte, Kathryn D.
Subject: RE: FCC/FTC Coordination on privacy issues

Great – talk to you next week.

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]

Sent: Friday, July 30, 2010 5:17 PM
To: Suzanne Tetreault
Cc: Brin, Katherine Race
Subject: Re: FCC/FTC Coordination on privacy issues

Hi Suzanne,

You guessed right - I am already home for the weekend. I think Monday afternoon is pretty free for me, so let's touch base Monday morning to set up a call. I have copied my co-counsel Katie Race Brin, who will hopefully join us as well.

Have a nice weekend,
Katie

PS Chris Olsen says hi.

From: Suzanne Tetreault <Suzanne.Tetreault@fcc.gov>
To: Ratte, Kathryn D.
Sent: Fri Jul 30 16:46:51 2010
Subject: FCC/FTC Coordination on privacy issues

Hi Katie – I understand that David Tannenbaum here at the FCC has been in contact either with you or with Jessica Rich about privacy-related issues. He asked me to give you a call to see if I could find out more about what you're doing in the Google Wi-Fi interception case in particular, and to see if we can provide any assistance. Since it's now late Friday afternoon, and with luck you'll be headed home soon, maybe we can find a time to talk next week. Could you either give me a call or let me know when you might be available on Monday? Thanks.

Looking forward to talking to you,
Suzanne

Suzanne M. Tetreault
Deputy Chief, Enforcement Bureau
Federal Communications Commission
(b)(6)

Corrigan, Sarah E.

From: Vandecar, Kim
Sent: Tuesday, October 26, 2010 5:31 PM
To: Mithal, Maneesha; Matties, Deborah J.
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Rich, Jessica L.; Prewett, Cecelia; Farrell, Claudia B.; Weinman, Yael; Vladeck, David; Eichorn, Mark
Subject: RE: Please use this version instead

When is this getting posted tomorrow?

Duplicate

Corrigan, Sarah E.

From: Vandecar, Kim

Sent: Monday, October 25, 2010 10:55 AM

To: Farrell, Claudia B.; Rich, Jessica L.; Mithal, Maneesha; Matties, Deborah J.; DeLorme, Christine L.; Prewett, Cecelia; Harrison, Lisa M.; Sannappa, Nithan

Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark; Weinman, Yael

Subject: RE: Google wi-fi - heads up for Monday

Please make sure I get 30 minutes to let the hill staff who had requested non-public briefings a heads up. Thanks

Duplicate

Corrigan, Sarah E.

From: Vandecar, Kim
Sent: Wednesday, June 09, 2010 2:06 PM
To: Harrison, Lisa M.; Ratte, Kathryn D.; Brin, Katherine Race; Mithal, Maneesha; Rosen, David
Subject: Google wifi non-public

Committee staff have asked to move the briefing to 1:30. Car will leave HQ at 1:00 now.

Corrigan, Sarah E.

From: Weinman, Yael
Sent: Thursday, July 08, 2010 10:46 AM
To: Ratte, Kathryn D.; Rich, Jessica L.; Heyder, Markus B.; Mithal, Maneesha; Brin, Katherine Race
Cc: Matz, Bethany E.; Stevenson, Hugh G.
Subject: Re: Diane Bartz

Go for it!

From: Ratte, Kathryn D.
To: Rich, Jessica L.; Heyder, Markus B.; Mithal, Maneesha; Brin, Katherine Race
Cc: Matz, Bethany E.; Weinman, Yael; Stevenson, Hugh G.
Sent: Thu Jul 08 09:58:43 2010
Subject: Re: Diane Bartz

I can do it, unless OIA wants first crack at this. Either way is fine with me.

From: Rich, Jessica L.
To: Heyder, Markus B.; Ratte, Kathryn D.; Mithal, Maneesha; Brin, Katherine Race
Cc: Matz, Bethany E.; Weinman, Yael; Stevenson, Hugh G.
Sent: Thu Jul 08 09:25:34 2010
Subject: RE: Diane Bartz

Thanks. I am hoping someone can draft an email that I (or Hugh) can forward to the Chairman (no abbreviations and a little more context?)

(b)(5)

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Thursday, October 21, 2010 10:03 AM
To: Mithal, Maneesha
Cc: Eichorn, Mark; Ratte, Kathryn D.
Subject: Emailing: Vladeck Google WiFi letter 10.21.10

Attachments: Vladeck Google WiFi letter 10.21.10.wpd

Vladeck Google WiFi letter 10....

Hi Maneesha. Attached is our Google WiFi letter, which includes edits from Mark. We are expecting an additional, limited response today from the company, but since we are only using publicly available information in the letter, today's submission shouldn't affect the substance of what you see here.

Thanks,
Katie

The message is ready to be sent with the following file or link attachments:

Vladeck Google WiFi letter 10.21.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Corrigan, Sarah E.

From: Will DeVries [wdevries@google.com]
Sent: Friday, October 22, 2010 3:56 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; Gidari, Al (Perkins Coie)
Subject: Re: Google announcement on privacy process improvements

Thanks, same to you both.

On Fri, Oct 22, 2010 at 3:53 PM, Ratte, Kathryn D. <KRATTE@ftc.gov> wrote:

> Thanks Will – we will have a look and let you know if we have questions. Have a great weekend! Katie

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Thursday, October 21, 2010 9:33 AM
To: Ratte, Kathryn D.
Subject: RE: revised Google letter

Will do. Hang in there.

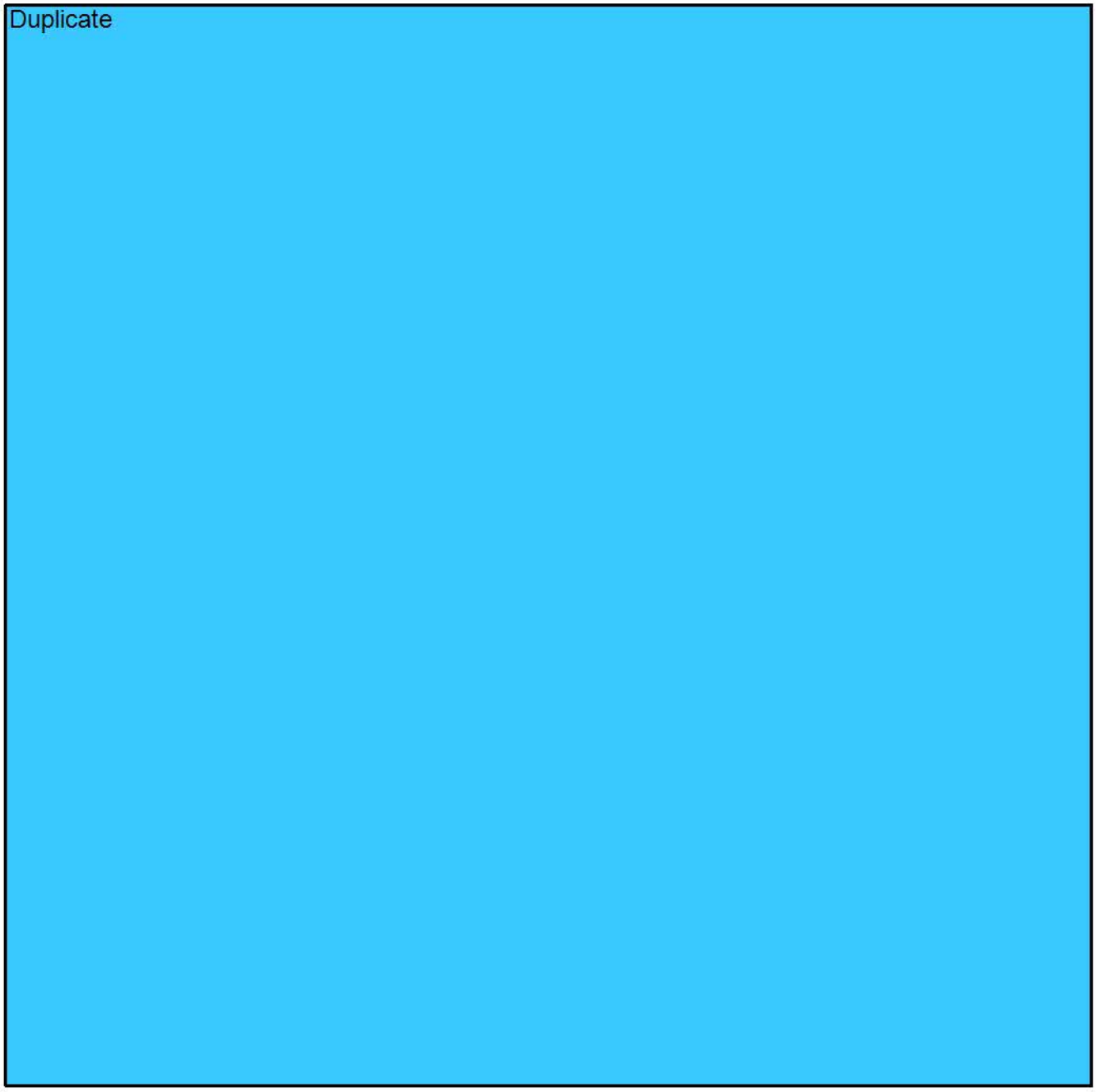
Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Wednesday, October 20, 2010 2:56 PM
To: 'Gidari, Al (Perkins Coie)'
Cc: Ratte, Kathryn D.
Subject: RE: WiFi Update

Al: Thanks for the update. Friday doesn't work for us, but we are free anytime Monday, except for 11-12:30 EST.

Thanks,
Katie



Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Wednesday, October 20, 2010 9:25 AM
To: Ratte, Kathryn D.
Subject: RE: WiFi Update

Monday is fine with me. I'll get back to him. Is there a particular time on Monday that works for you, or should I just go by your calendar?

I didn't get a chance to look at a single Buzz document yesterday – (and an hour of yoga!) – but I'll finish the docs today. (b)(5)

Sorry you're still not feeling well.

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 8:39 AM
To: Brin, Katherine Race
Subject: FW: WiFi Update

This sounds good to me, Not Responsive Can we ask him for a Monday time instead and do the Buzz supplemental information then? We may be able to give him an update on the letter at that point.

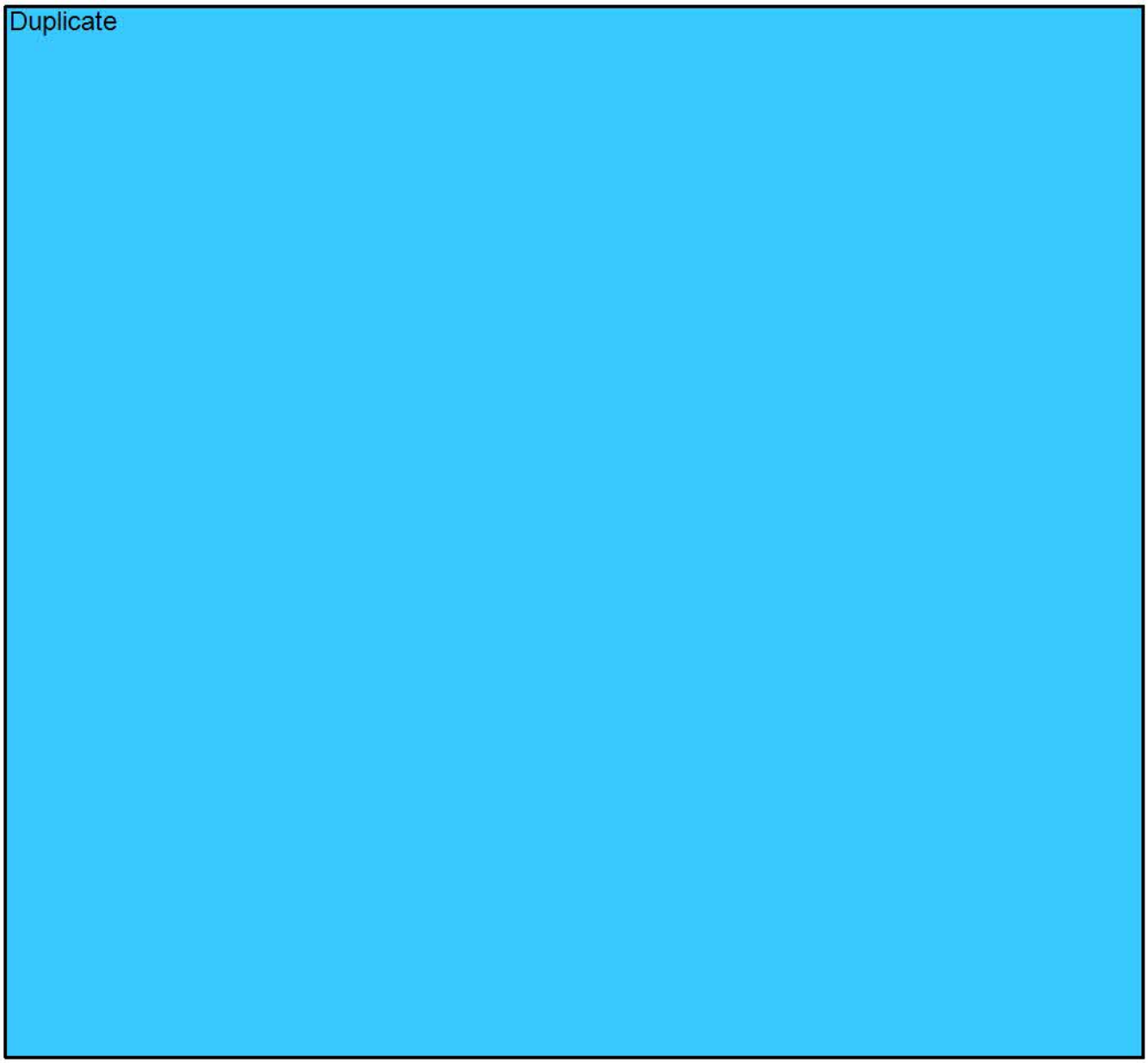
I'm coming in for Ethics training at 10 and will see how long I last after that. So see you around 11:30 (though I don't want to get you sick too).

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 11:23 AM
To: 'Gidari, Al (Perkins Coie)'
Cc: Ratte, Kathryn D.
Subject: RE: Update on WiFi

Thanks, Al.



Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Monday, October 18, 2010 12:59 PM
To: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Ok. I'll swing by in 2 minutes.

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Monday, October 18, 2010 10:57 AM
To: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

This looks fab. Let me know when you're back, and I'll swing by with my (minimal) comments.

Duplicate

Corrigan, Sarah E.

Subject:	Buzz & WiFi update
Location:	Maneesha's office
Start:	Thu 10/14/2010 10:30 AM
End:	Thu 10/14/2010 11:00 AM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Required Attendees:	Mithal, Maneesha; Ratte, Kathryn D.; Eichorn, Mark

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Wednesday, October 13, 2010 11:33 AM
To: Ratte, Kathryn D.
Subject: RE: woo!

Sounds good. I'm nearing the halfway point of the docs, so we are closing in.

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Tuesday, October 05, 2010 3:31 PM
To: Ratte, Kathryn D.
Subject: RE: call this week

yup

From: Ratte, Kathryn D.
Sent: Tuesday, October 05, 2010 3:31 PM
To: Brin, Katherine Race
Subject: FW: call this week

Ok with you?

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Tuesday, October 05, 2010 3:28 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Cc: Mithal, Maneesha
Subject: RE: WiFi

Great!

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Monday, October 04, 2010 9:10 AM
To: Ratte, Kathryn D.
Subject: RE: Google FOIA Question

Thanks – I'll be in tomorrow, so see you then.

Duplicate

Corrigan, Sarah E.

From: Brin, Katherine Race
Sent: Tuesday, September 28, 2010 10:20 AM
To: 'Gidari, Al (Perkins Coie)'
Cc: Ratte, Kathryn D.
Subject: RE: WiFi and Buzz Update

Al: Does tomorrow (Wed) at noon EST, 9 am PST work for you? If so, do you mind setting up a conference line? Katie and I may be working from different locations tomorrow.

Thanks.

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, September 27, 2010 4:36 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: WiFi and Buzz Update

thanks Katie - early morning PDT is best for me any day this week.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Brin, Katherine Race [mailto:kbrin@ftc.gov]
Sent: Monday, September 27, 2010 1:05 PM
To: Gidari, Al (Perkins Coie)
Cc: Ratte, Kathryn D.
Subject: RE: WiFi and Buzz Update

Katie R. is out of the office this afternoon, but we'll be in touch tomorrow about setting up call sometime this week. Are there certain days/times that are better for you?

Thanks.

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, September 27, 2010 1:45 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Subject: WiFi and Buzz Update

Do you have a few minutes for a call in the next few days for an update?

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800

Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

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Corrigan, Sarah E.

From: Brooke, J. Ronnie

Sent: Thursday, July 22, 2010 4:18 PM

To: MobileNews

Subject: CT AG seeks Info about Google's Street View vehicles

Connecticut Attorney General Richard Blumenthal said Wednesday that a total of 37 states are now a part of his investigation of Google Inc. as he continues to seek information about whether privacy laws were broken when Google's Street View vehicles collected the personal data of Internet users.

http://www.totaltele.com/view.aspx?ID=457274

Corrigan, Sarah E.

From: Crawford, Molly

Sent: Tuesday, August 17, 2010 9:36 AM

To: Ratte, Kathryn D.; Brin, Katherine Race

Subject: Spain Becomes Latest Country to Take on Google

http://www.nytimes.com/aponline/2010/08/17/technology/AP-EU-Spain-Google-Street-View.html?_r=1&hp

Corrigan, Sarah E.

From: Eichorn, Mark

Sent: Monday, October 25, 2010 1:52 PM

To: Ratte, Kathryn D.; Mithal, Maneesha; Rich, Jessica L.; Brin, Katherine Race; Shanoff, Carolyn

Subject: RE: talking points on wifi letter

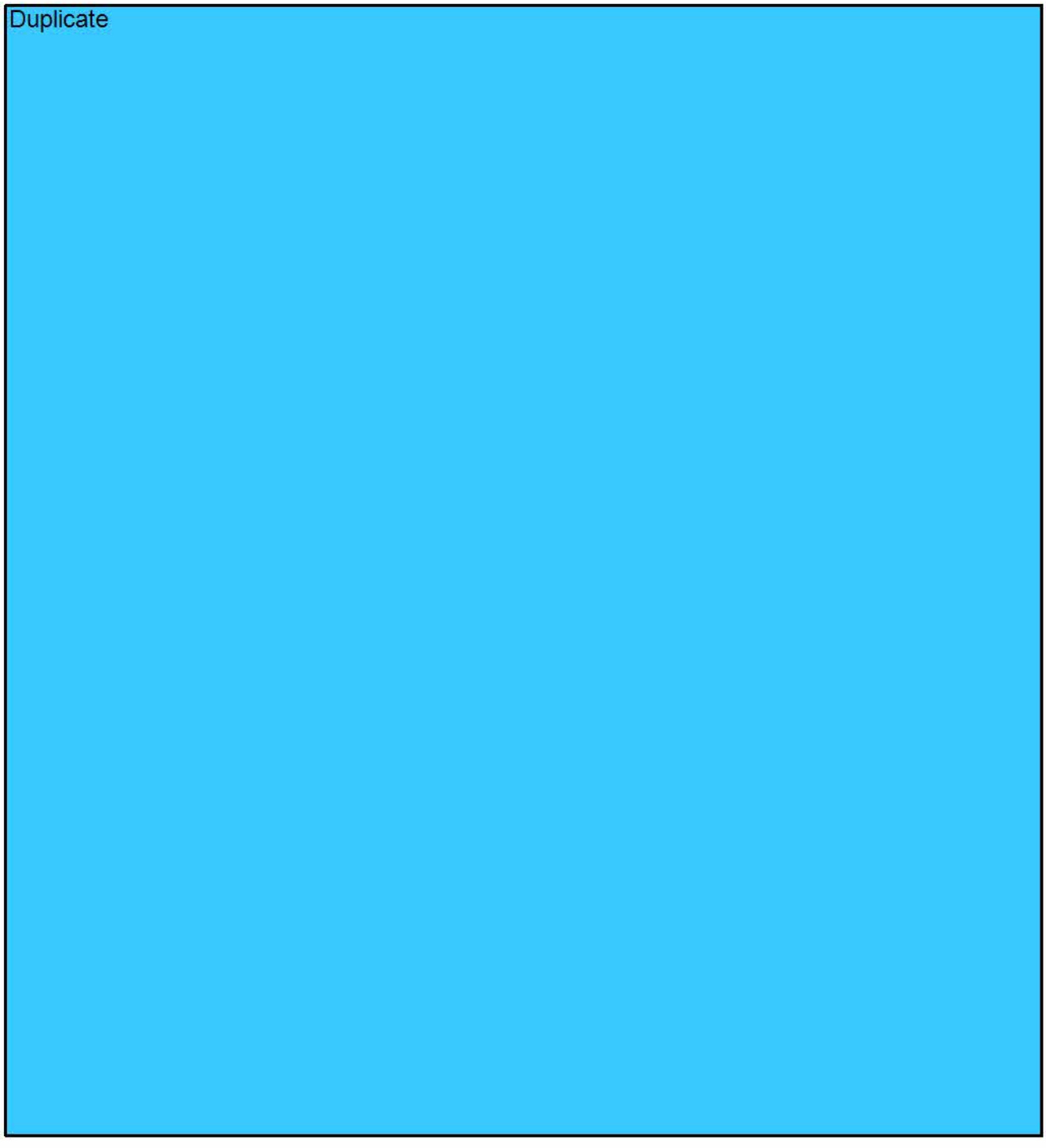
(b)(5)

Duplicate

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Monday, October 25, 2010 9:52 AM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: Google wi-fi - heads up for Monday

Thank you. The version I saw looked great, so thank you for that, and thank you very much for working on this over the weekend when you didn't feel well in the first place.



Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Wednesday, October 20, 2010 4:48 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: revised Google letter
Attachments: Vladeck Google WiFi letter 10 20 10 v2.wpd

I like this version very much. (b)(5)

(b)(5)

Thanks for the heads up on the OECD mtg, definitely good to let him know the atmosphere. Are you going?

Duplicate

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Wednesday, October 20, 2010 9:57 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Always good to give credit to our Canadian friends!

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 9:49 AM
To: Eichorn, Mark; Brin, Katherine Race
Subject: Re: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

----- Original Message -----
From: Eichorn, Mark
To: Ratte, Kathryn D.; Brin, Katherine Race
Sent: Wed Oct 20 09:45:03 2010
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 7:08 PM
To: Eichorn, Mark; Brin, Katherine Race
Subject: Re: Emailing: Vladeck Google WiFi letter.10.18.10

We'll take a look at the letter tomorrow and make sure the language is general enough so that it's not referring to any nonpublic information. (b)(5)

(b)(5)

----- Original Message -----
From: Eichorn, Mark
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Sent: Tue Oct 19 18:31:03 2010
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 6:28 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

-----Original Message-----

From: Eichorn, Mark
Sent: Tuesday, October 19, 2010 6:23 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Thanks. (b)(5)
(b)(5)

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 6:16 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(3):21(f),(b)(5)

-----Original Message-----
From: Eichorn, Mark
Sent: Tuesday, October 19, 2010 6:13 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Thanks. (b)(5)
(b)(5)

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 2:09 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: Emailing: Vladeck Google WiFi letter.10.18.10

Mark: Here is our draft letter to Google re: WiFi. We are getting some additional information from the company either later today or tomorrow, but we don't think it should change the substance of the letter much, if at all. Let us know your thoughts.

Thanks,
Katie

The message is ready to be sent with the following file or link attachments:

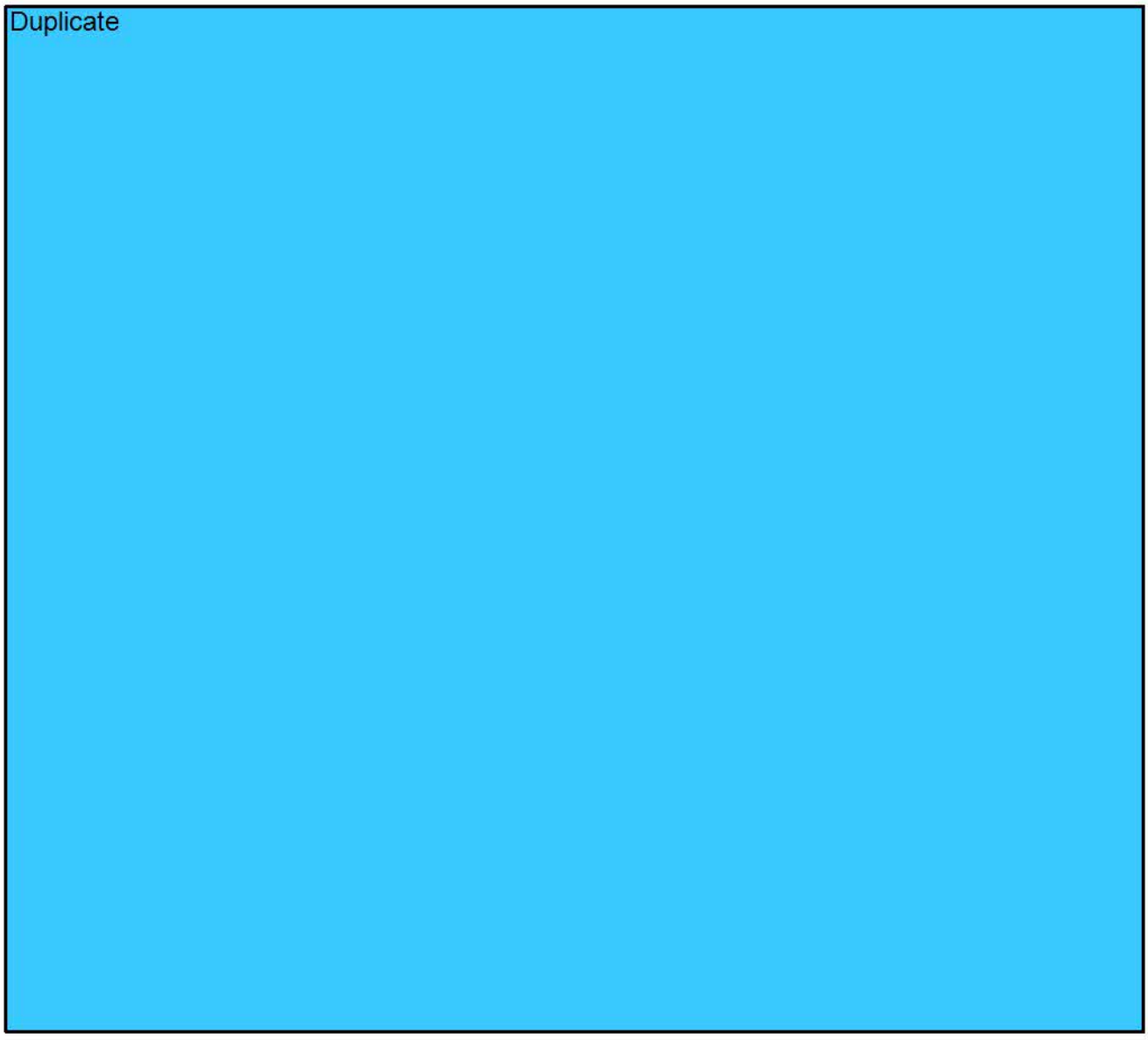
Vladeck Google WiFi letter.10.18.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Corrigan, Sarah E.

From: Eichorn, Mark
Sent: Tuesday, October 05, 2010 3:31 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Mithal, Maneesha
Subject: RE: WiFi

Great news – thanks, Katie!



Statement

ico.
Information Commissioner's Office

1 November 2010

The ICO's latest position on Google Street View

An ICO spokesperson said:

"Enforcing and defending the rights of the UK public under the Data Protection Act has always been - and remains - central to the work of the Information Commissioner. However, as a regulator, the ICO must take a calm and measured approach to the issue of data privacy and ensure that we do not get caught up in the emotive arguments which will only naturally take place around sensitive issues such as the inadvertent collection of data by Google Street View. We must remain evidence based and although our enquiries, along with the enquiries of our international counterparts, are taking longer than many people might like, it is of paramount importance that we get our decision right in order to ensure the public can be confident that their long term privacy interests are being maintained.

"Having followed the debate on Thursday 28 October, it became apparent that a great deal of misunderstanding exists about what actions we have already taken and what we are doing in relation to Google Street View. We are keen to discuss with MPs and Ministers how we can further defend privacy on the internet as technologies and applications develop. As an organisation we are already looking to the future with the ICO recently advertising for a new technology adviser post and we will be looking to setup an industry panel of experts to advise on our work in this area in future. This is the start of important changes within the organisation to better meet the future privacy needs of the UK public.

"The situation as it stands is this. Earlier this year the ICO visited Google's premises to make a preliminary assessment of the 'pay-load' data it inadvertently collected whilst developing Google Street View. Whilst the information we saw at the time did not include meaningful personal details that could be linked to an identifiable person, we have continued to liaise with, and await the findings of, the investigations carried out by our international counterparts.

"Now that these findings are starting to emerge, we understand that Google has accepted that in some instances entire URLs and emails and passwords have been captured. We have already made enquires to see whether this admission relates to the data inadvertently captured in the UK, and we are

now deciding on the necessary course of action, including a consideration of the need to use our enforcement powers.

"It is also important to note that none of the regulators currently investigating Google Street View have taken direct enforcement action at this stage, with the US investigation led by the US Federal Trade Commission for example ruling out direct action, although mirroring our own concern that this data was allowed to be collected by an organisation who showed such disregard for international data protection legislation. This week the Metropolitan Police have also closed their case believing it would not be appropriate to pursue a criminal case against Google under the Regulation of Investigatory Powers Act (RIPA). Whilst we continue to work with our other international counterparts on this issue we will not be panicked into a knee jerk response to an alarmist agenda."

For all media enquires, please contact the ICO press office on 0303 123 9070.

For all general enquires, please contact the ICO customer service team on 0303 123 1113.

Ratte, Kathryn D.

Subject:	Google Street View -- call with Ashkan
Location:	KD's office
Start:	Wed 5/19/2010 12:00 PM
End:	Wed 5/19/2010 12:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Required Attendees:	Ratte, Kathryn D.; Soltani, Ashkan

When: Wednesday, May 19, 2010 12:00 PM-12:30 PM (GMT-05:00) Eastern Time (US & Canada).
Where: KD's office

~~*~*~*~*~*~*~*~*

If KD's not in the office, I'll just conference everyone in.

Ashkan's cell: (b)(6)

Ratte, Kathryn D.

Subject: Google Wi-Fi meeting
Location: 8201

Start: Tue 5/25/2010 11:00 AM
End: Tue 5/25/2010 12:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Ratte, Kathryn D.; Brin, Katherine Race

Not Responsive

Ratte, Kathryn D.

Subject: Hill briefing on Google Wi-Fi
Location: Maneesha's office

Start: Thu 6/10/2010 2:30 PM
End: Thu 6/10/2010 3:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Ratte, Kathryn D.; Brin, Katherine Race; Mithal, Maneesha

Could we meet for a few minutes after the staff meeting to go over what will happen at the Hill briefing? Neither KRB nor I have ever done one, so we wanted to get a better sense of the prep required. Shouldn't take more than a few minutes. Thanks!

Ratte, Kathryn D.

Subject:	Updated: Google wifi non-public
Location:	Rayburn
Start:	Fri 6/11/2010 1:30 PM
End:	Fri 6/11/2010 2:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Required Attendees:	Vandecar, Kim; Harrison, Lisa M.; Ratte, Kathryn D.; Brin, Katherine Race; Harrison, Lisa M.; Rosen, David

Car will leave HQ garage at 12:35 and pick up staff at 601.

Can you please schedule a car Dave?

Ratte, Kathryn D.

Subject: Google WiFi and Buzz update
Location: Maneesha's office

Start: Tue 7/13/2010 1:30 PM
End: Tue 7/13/2010 2:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Required Attendees: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race

Katie and I wanted to touch base about next steps in Google WiFi - she's drafted a follow-up letter, and we want to be sure we're all on the same page on the issue of viewing the data. Everyone's calendar looks clear at 1:30, but let me know if this is not a good time. Thanks!

Ratte, Kathryn D.

Subject: Updated: Discuss Google Wi Fi

Start: Mon 11/1/2010 11:00 AM
End: Mon 11/1/2010 11:30 AM

Recurrence: (none)

Meeting Status: Accepted

Required Attendees: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark; Ratte, Kathryn D.; Brin, Katherine Race; Weinman, Yael; Vandecar, Kim

When: Monday, November 01, 2010 11:00 AM-11:30 AM (GMT-05:00) Eastern Time (US & Canada).

Note: The GMT offset above does not reflect daylight saving time adjustments.

~~*~*~*~*~*~*~*~*

Adding Kim

I am working from home Monday but am hoping we can discuss the (potential) nonpublic Wi Fi briefing by phone in the morning. We will probably need a follow up meeting right before the briefing, but it would be good to touch base asap.

Among other things -- and this is one of the reasons I am including Yael -- we should be prepared to compare our laws to the foreign laws that are supposedly being enforced on this. Also, do we know what laws the states are using - is it mini FTC acts or something more specific? Thanks!!

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 27, 2010 4:20 PM
To: Rich, Jessica L.
Subject: RE: Google Street View

I'm trying!

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 4:10 PM
To: Ratte, Kathryn D.
Subject: RE: Google Street View

That was very nice of you to suggest.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Ratte, Kathryn D.
Sent: Wednesday, October 27, 2010 4:08 PM
To: Eichorn, Mark
Cc: Rich, Jessica L.
Subject: FW: Google Street View

Here's the chain, just for your background. Hope the call goes ok!

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 3:52 PM
To: JDL; Mithal, Maneesha
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.
Subject: RE: Google Street View

Yes, we were just discussing the same thing!!

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: JDL
Sent: Wednesday, October 27, 2010 3:46 PM
To: Rich, Jessica L.; Mithal, Maneesha
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.
Subject: RE: Google Street View

Can someone give him a call today?
Thanks.

Jon

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 3:20 PM
To: Mithal, Maneesha; JDL
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.
Subject: RE: Google Street View

As to your question about whether someone petitioned us on Google WiFi, it turns out we did get a petition from John Simpson at Consumer Watchdog. We should have given him a heads up on the letter, but overlooked that in the rush of completing the letter. In the future, we'll certainly give the heads up to any petitioners and also offer to brief the privacy advocates contemporaneously.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Mithal, Maneesha
Sent: Wednesday, October 27, 2010 3:02 PM
To: JDL; Rich, Jessica L.
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.
Subject: RE: Google Street View

I believe Jessica already spoke with Jeff Chester this morning, and David is in Jerusalem with Mark -- they can certainly elaborate further on their discussions.

I think we anticipated this (particularly after Google said they were "pleased" with the letter), but hopefully, as we get cases out, the advocacy groups will be happier. Our

(b)(5) [redacted]

From: JDL
Sent: Wednesday, October 27, 2010 2:52 PM
To: Rich, Jessica L.; Mithal, Maneesha
Cc: Vladeck, David; Prewett, Cecelia; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.
Subject: Google Street View

A little privacy birdy told me that the advocacy community is kind of unhappy--some within it are possibly unhinged--by the fact that our closing letter erupted into the press this morning without any heads up. Now, we are of course doing what we think is appropriate under our statute. And our reasonableness here may actually help us make forward progress on far more important privacy policy and cases. But did anybody notify any of the privacy advocates contemporaneously with the release of the letter, especially Mark Rotenberg, who filed a petition on this matter with us (I think). If so, what did he say? If not, Is it worth having someone call him (and others?) up to explain our reasoning? [He might be in Israel, er, Jerusalem.]
Best,
Jon

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 27, 2010 1:29 PM
To: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha
Subject: RE: FCC

Thanks Katie. We should send an email to the states as well with a link to our letter.

Not Responsive

From: Brin, Katherine Race
Sent: Wednesday, October 27, 2010 11:21 AM
To: Ratte, Kathryn D.; Eichorn, Mark; Mithal, Maneesha
Subject: FCC

I just spoke with Suzanne Treatault from the FCC re: Google WiFi. (b)(5)
(b)(5)
(b)(5) I alerted her to the fact that our letter came out this morning and is on our website.

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 8:24 PM
To: Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark; Rich, Jessica L.
Subject: Fw: WiFi letter

As I suspected, at least Google's outside counsel is happy with the language.

From: Gidari, Al (Perkins Coie) <AGidari@perkinscoie.com>
To: Ratte, Kathryn D.
Sent: Tue Oct 26 20:18:21 2010
Subject: RE: WiFi letter

Thanks again Katie for working with us on this matter - I've read the letter and circulated it. I know Google is happy to have this behind them, and it has and will be an important milestone in the development of strong internal processes. We also know the language could have been stronger and we appreciate the clear closing statement. Thanks for the heads up as well. Now if only all the plaintiffs' lawyers were as easy to work with ....

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Tuesday, October 26, 2010 4:54 PM
To: Gidari, Al (Perkins Coie)
Subject: Re: WiFi letter

Sorry to add to your hectic schedule. :). Are you in Jerusalem too? Or hopefully heading home.

From: Gidari, Al (Perkins Coie) <AGidari@perkinscoie.com>
To: Ratte, Kathryn D.
Sent: Tue Oct 26 19:50:41 2010
Subject: Re: WiFi letter

Thanks - just landed and will do so shortly..... after I read it!!!

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Tuesday, October 26, 2010 04:39 PM
To: Gidari, Al (Perkins Coie)
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Brin, Katherine Race <kbrin@ftc.gov>
Subject: WiFi letter

Dear Al,

Per our discussion yesterday, attached please find the FTC's letter relating to Google's collection of WiFi data. We plan to release this letter publicly tomorrow. Please let Jane and any other Google folks who are in Jerusalem know this is coming out because David plans to discuss it at the meetings there.

Thanks, as always, for your cooperation.

Best regards,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

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Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 5:20 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

One more thing - please make sure this doesn't go out so fast that Katie and I don't get to talk to their lawyer beforehand. He's told us the company would be glad to state publicly that they will never use the data, but we should confirm to be safe. We will call him Monday.

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha
Sent: Sat Oct 23 16:29:00 2010
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Thanks. So Maneesha - can you send to OGC, OPA, and Debbie/Christine tomorrow with background on the matter and an explanation on why the quick turnaround is important? (Tell them you don't expect them to read it but wanted it to be waiting in the queue, given the time sensitivity.)

(b)(5) [redacted]

Great job Katie.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Mithal, Maneesha
Sent: Sat Oct 23 16:18:23 2010
Subject: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Incorporating Jessica's change to (b)(5) [redacted]

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:35 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

(b)(5)

Signing off now! I think the report edits might have to wait until Monday.

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:30 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

I'm going to head out for a little while, but I can pick this up again later if there are more changes.

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:18 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

/ladeck Google WiFi letter 10 ...

ncorporating Jessica's change to (b)(5)

(b)(5)

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:17 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Works for me - new version shortly. (b)(5)
(b)(5)

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha
Sent: Sat Oct 23 16:15:09 2010
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

(b)(5)

You are so good!!
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Mithal, Maneesha
Sent: Sat Oct 23 16:10:06 2010
Subject: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Here's the latest - (b)(5)
(b)(5)
(b)(5) The new text is pasted below:

(b)(5)

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:02 PM
To: Mithal, Maneesha
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

It's okay - I was going to work on the report today/tonight anyway. But thanks!

-----Original Message-----
From: Mithal, Maneesha
Sent: Saturday, October 23, 2010 4:01 PM
To: Ratte, Kathryn D.
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

If you need to stop any time and go enjoy the day, I can pick up tonight.

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Sent: Sat Oct 23 15:59:25 2010
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

That one was actually from the original letter, but I'll tweak and resend.

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 3:58 PM
To: Ratte, Kathryn D.
Cc: Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

No need! I retried a couple of times and got the right one. (b)(5)

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.
Cc: Mithal, Maneesha
Sent: Sat Oct 23 15:45:59 2010
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

There may be a problem with my blackberry - it keeps showing me the old version. I hate to trouble you, but can you paste it into the text and put the fns at the bottom?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----

From: Ratte, Kathryn D.
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Sent: Sat Oct 23 15:34:01 2010
Subject: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Sending again, to make sure I sent the correct version. The second to last paragraph starts with a reference to Friday's blog post. (b)(5)

(b)(5)

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:01 PM
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

That's fine - I'll see what I can come up with.

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 4:01 PM
To: Ratte, Kathryn D.
Cc: Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 3:59 PM
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Sorry - the cut and paste from WP didn't take the footnotes. And sorry it took so long - I got kicked out of SAFE and then had to try 5 (!) times to get it to work again. Ugh ugh ugh.

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 3:46 PM
To: Ratte, Kathryn D.
Cc: Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

There may be a problem with my blackberry - it keeps showing me the old version. I hate to trouble you, but can you paste it into the text and put the fns at the bottom?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Tracking:

Recipient	Delivery	Read
Rich, Jessica L.	Delivered: 10/23/2010 3:59 PM	Read: 10/23/2010 4:00 PM
Mithal, Maneesha	Delivered: 10/23/2010 3:59 PM	

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 3:58 PM
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

(b)(5)

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 3:04 PM
To: Mithal, Maneesha; Rich, Jessica L.
Cc: Eichorn, Mark
Subject: Re: Google WiFi letter draft

Did the Google Books letter get full Commission review?

----- Original Message -----
From: Mithal, Maneesha
To: Ratte, Kathryn D.; Rich, Jessica L.
Cc: Eichorn, Mark
Sent: Sat Oct 23 14:59:57 2010
Subject: Re: Google WiFi letter draft

Thanks for doing this on a Saturday. I think the revised version does a great job of finessing the timing. I may have some minor tweaks, but I don't want to hold anything up (probably won't be able to get to it till tomorrow), so Jessica, if we should send this version around, we can do that. (In fact, if you want me to try to send the letter to the various offices tomorrow, I can so that we can try to get it out Monday.)

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Mithal, Maneesha
Cc: Eichorn, Mark
Sent: Sat Oct 23 14:45:05 2010
Subject: RE: Google WiFi letter draft

Okay, here's another version and a compare to yesterday's version(adding Mark, in case he wants to weigh in). Here's what I did - (b)(5)

(b)(5)

I also took some of Mark G's line edits.

Let me know what you think. Katie

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 2:30 PM
To: Ratte, Kathryn D.; Mithal, Maneesha
Subject: Re: Google WiFi letter draft

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha
Sent: Sat Oct 23 14:24:21 2010
Subject: Re: Google WiFi letter draft

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Mithal, Maneesha
Sent: Sat Oct 23 14:02:04 2010
Subject: RE: Google WiFi letter draft

(b)(5)

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 1:16 PM
To: Ratte, Kathryn D.; Mithal, Maneesha
Subject: Fw: Google WiFi letter draft

For your consideration. I don't think I agree with a portion of these, but maybe one or two look good.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Glassman, Mark
To: Rich, Jessica L.; Fortsch, Gregory W.
Sent: Fri Oct 22 15:02:41 2010
Subject: RE: Google WiFi letter draft

Jessica and Greg,

I'm not sure what I was supposed to be looking for, but here are some thoughts in an attached redline.

Mark

-----Original Message-----
From: Rich, Jessica L.
Sent: Friday, October 22, 2010 1:22 PM
To: Glassman, Mark; Fortsch, Gregory W.
Subject: Fw: Google WiFi letter draft

One of you shoukd look at this. I'll look at it simultaneously.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Vladeck, David; Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Cc: Stevenson, Hugh G.; Weinman, Yael
Sent: Fri Oct 22 12:54:50 2010
Subject: Google WiFi letter draft

Hi everyone,

Per our discussion at a biweekly a few weeks ago, attached is a draft letter from David to Google's outside counsel regarding Google's collection of consumer data transmitted over unsecured wireless networks. Please let us know if you have edits, and please also let us know when we should share with Cecilia and OPA.

I'm cc'ing the OIA folks because Katie and I heard from Google's outside counsel that the Canadians and some other DPAs plan to highlight this issue at the meetings in Jerusalem next week. David, I think that if you get questions about this specific issue, we can make a general statement about the need to limit consumer data collected and to implement reasonable retention (it's set forth in general terms in the paragraph on page 2 beginning "Our Chairman highlighted...")

Also, in case you haven't seen it, Canada's preliminary letter of findings on Google WiFi can be found at:
http://www.priv.gc.ca/media/nr-c/2010/let_101019_e.cfm

I'm heading home soon (still not feeling well), but I can be reached by email or at (b)(6) if anyone has questions.

Thanks! Katie

Ratte, Kathryn D.

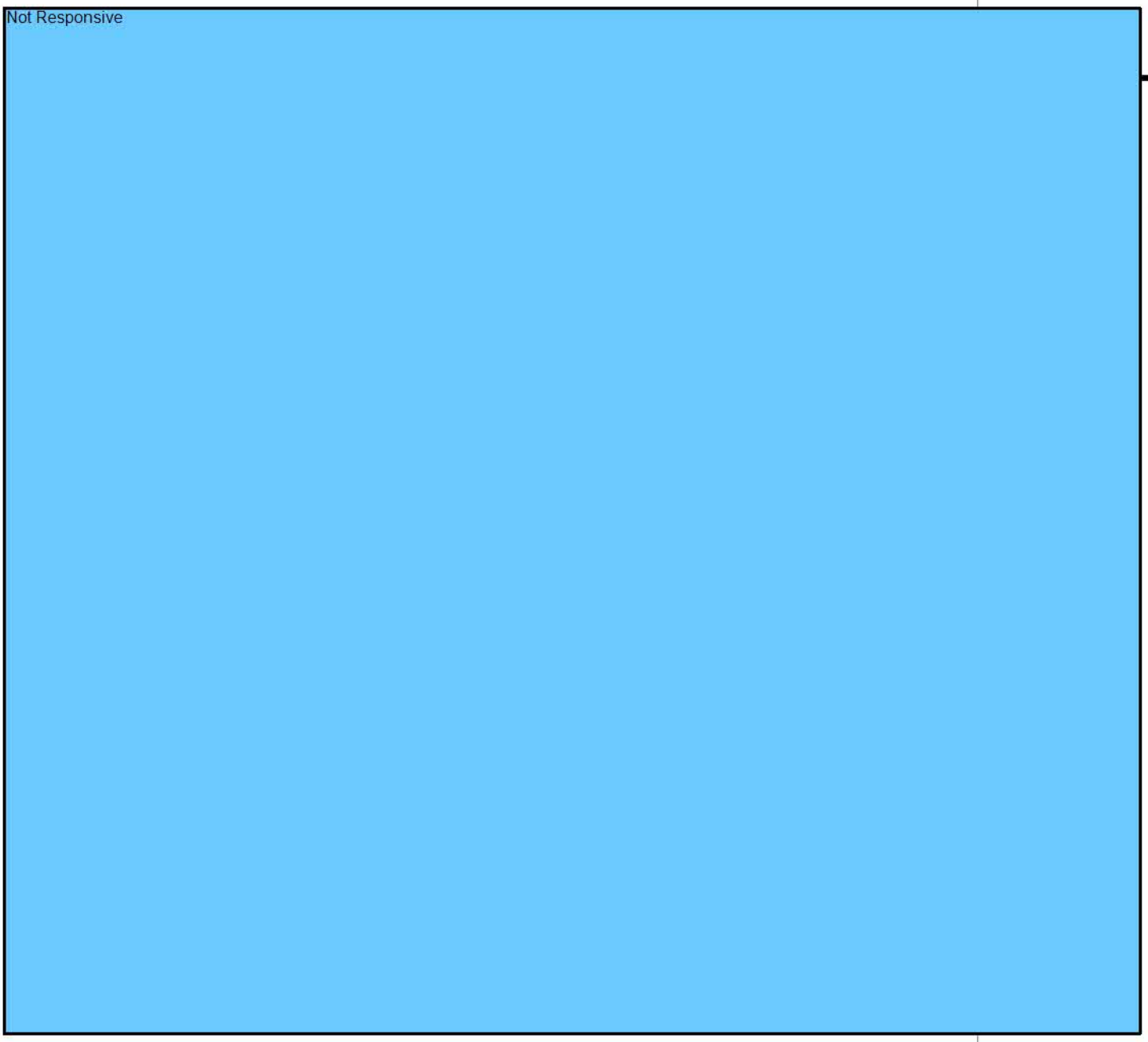
From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 2:46 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: RE: Google WiFi letter draft

PS I saw Debbie at the gym this morning - I wish I had known this was coming. I could have tried to convince her to grease the wheels for this while we were in Pilates class.

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 2:30 PM
To: Ratte, Kathryn D.; Mithal, Maneesha
Subject: Re: Google WiFi letter draft

And stress in importance of not using data
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate



----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.
Sent: Sat Oct 23 13:48:10 2010
Subject: RE: Google WiFi letter draft

It's okay - I was supposed to be in Minnesota this weekend, but I was sick this week and cancelled my trip. I was planning to stay home today/tonight and work on the report anyway, so it's really no problem. (It is a problem, however, that I really have nothing better to do on a Saturday than work...)

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 12:03 PM
To: Ratte, Kathryn D.
Subject: Re: Google WiFi letter draft

And sorry for the weekend work
Jessica Rich
Deputy Director
Bureau of Consumer Protection

Federal Trade Commission
202-326-2148

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.
Sent: Sat Oct 23 12:02:24 2010
Subject: Re: Google WiFi letter draft

Yes
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.
Sent: Sat Oct 23 11:56:41 2010
Subject: Re: Google WiFi letter draft

I'm on it - was planning to work on report edits this weekend, but I could try to flip you a draft today or tomorrow. Should I try to loop in Mark and Maneesha?

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Cc: Glassman, Mark
Sent: Sat Oct 23 11:35:56 2010
Subject: Re: Google WiFi letter draft

(b)(5)

(b)(5)

(b)(5) Very easy to do. And QUICKLY show to OGC - I can help with that.

David loved the letter - thanks!
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Cc: Glassman, Mark
Sent: Fri Oct 22 15:59:16 2010
Subject: RE: Google WiFi letter draft

Happy to discuss this further on Monday - (b)(5)

(b)(5) Have a great weekend!

-----Original Message-----
From: Rich, Jessica L.
Sent: Friday, October 22, 2010 3:58 PM
To: Ratte, Kathryn D.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine

Race
Cc: Glassman, Mark
Subject: Re: Google WiFi letter draft

Ok - I still need to get my head around this - thanks for your patience. I have a few other Qs but I'll follow up Monday. Adding Mark (whom I asked to look at the letter too).
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine
Race
Sent: Fri Oct 22 15:47:09 2010
Subject: RE: Google WiFi letter draft

We checked with outside counsel on the assurances, and he said the company is happy to have those in a public letter. The fact of the cooperation may not be public, but I imagine they would confirm that they're willing to have us cite that.

All of the information about the events is from public sources. And at this point, with the Canadian letter as a public document, there is an even more comprehensive source of information out there that's public (b)(5)

(b)(5)

-----Original Message-----
From: Rich, Jessica L.
Sent: Friday, October 22, 2010 3:45 PM
To: Ratte, Kathryn D.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine
Race
Cc: Stevenson, Hugh G.; Weinman, Yael
Subject: Re: Google WiFi letter draft

What about their assurances to the FTC ? Can we really say that's public? And do we think the info and cooperation they provided to us was public and that they'd view it that way? (Is OGC ok with this?)
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine
Race
Cc: Stevenson, Hugh G.; Weinman, Yael
Sent: Fri Oct 22 15:35:12 2010
Subject: RE: Google WiFi letter draft

(b)(5)

-----Original Message-----
From: Rich, Jessica L.
Sent: Friday, October 22, 2010 3:27 PM
To: Ratte, Kathryn D.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine
Race
Cc: Stevenson, Hugh G.; Weinman, Yael
Subject: Re: Google WiFi letter draft

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 1:50 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: RE: Google WiFi letter draft

Disagree with the substantive suggestion, but there are a few stylistic edits that look ok.

-----Original Message-----
From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 1:16 PM
To: Ratte, Kathryn D.; Mithal, Maneesha
Subject: Fw: Google WiFi letter draft

For your consideration. I don't think I agree with a portion of these, but maybe one or two look good.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Glassman, Mark
To: Rich, Jessica L.; Fortsch, Gregory W.
Sent: Fri Oct 22 15:02:41 2010
Subject: RE: Google WiFi letter draft

Jessica and Greg,

I'm not sure what I was supposed to be looking for, but here are some thoughts in an attached redline.

Mark

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 1:47 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: RE: Google WiFi letter draft

I'll take a look when I do the next round incorporating a reference to their new process changes.

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 12:59 PM
To: Weinman, Yael
Cc: Mithal, Maneesha
Subject: RE: Google WiFi letter draft

CC'ing Maneesha in case she has a different response, but could you share the fact that this will come up (citing the news about Canada) and our general point (the paragraph on the Senate testimony) without sharing the whole letter? I don't think this gets Commission review, and I think the Bureau would get mad if she saw it before they weighed in.

-----Original Message-----
From: Weinman, Yael
Sent: Friday, October 22, 2010 12:56 PM
To: Ratte, Kathryn D.
Subject: Re: Google WiFi letter draft

Can I share with Brill?

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Thursday, October 21, 2010 3:06 PM
To: Mithal, Maneesha
Subject: Accepted: Wifi letter

I'm home sick today but happy to talk by phone.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 8:19 PM
To: 'AGidari@perkinscoie.com'
Subject: Re: WiFi letter

Sorry to hear that! Was hoping for your sake that you were in a car heading for Bainbridge. Wish I were!

From: Gidari, Al (Perkins Coie) <AGidari@perkinscoie.com>
To: Ratte, Kathryn D.
Sent: Tue Oct 26 19:55:15 2010
Subject: Re: WiFi letter

Palo Alto now. Not home til TH :(

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Tuesday, October 26, 2010 04:54 PM
To: Gidari, Al (Perkins Coie)
Subject: Re: WiFi letter

Sorry to add to your hectic schedule. :). Are you in Jerusalem too? Or hopefully heading home.

From: Gidari, Al (Perkins Coie) <AGidari@perkinscoie.com>
To: Ratte, Kathryn D.
Sent: Tue Oct 26 19:50:41 2010
Subject: Re: WiFi letter

Thanks - just landed and will do so shortly..... after I read it!!!

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Tuesday, October 26, 2010 04:39 PM
To: Gidari, Al (Perkins Coie)
Cc: Mithal, Maneesha <MMITHAL@ftc.gov>; Brin, Katherine Race <kbrin@ftc.gov>
Subject: WiFi letter

Dear Al,

Per our discussion yesterday, attached please find the FTC's letter relating to Google's collection of WiFi data. We plan to release this letter publicly tomorrow. Please let Jane and any other Google folks who are in Jerusalem know this is coming out because David plans to discuss it at the meetings there.

Thanks, as always, for your cooperation.

Best regards,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission

600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

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

Office of the Director
Bureau of Consumer Protection

October 27, 2010

Albert Gidari, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

Dear Mr. Gidari:

I am writing regarding your client Google's announcement about its collection of consumer data transmitted over unsecured wireless networks. According to Google's announcement, in 2007, the company installed software on its "Street View" cars[1] to collect data about consumers' wireless network access points for the purpose of improving its location-based services. Earlier this year, in response to a request from the data protection authority in Hamburg, Germany, Google discovered that the software on the Street View cars had also been collecting some "payload" data – contents of communications sent over unsecured wireless networks. The company stated that the collection of payload data was inadvertent and that the company did not use the payload data in any Google product or service.[2]

FTC staff has concerns about the internal policies and procedures that gave rise to this data collection. As noted above, the company did not discover that it had been collecting payload data until it responded to a request for information from a data protection authority. This indicates that Google's internal review processes – both prior to the initiation of the project to collect data about wireless access points and after its launch – were not adequate to discover that the software would be collecting payload data, which was not necessary to fulfill the project's business purpose. These review processes are necessary to identify risks to consumer privacy posed by the collection and use of information that is personally identifiable or reasonably linkable to a specific consumer. For *any* such information, Google should develop and implement reasonable procedures, including collecting information only to the extent necessary to fulfill a business purpose, disposing of the information no longer necessary to accomplish that purpose, and maintaining the privacy and security of information collected and stored.

---

[1] Google's Street View program provide street-level imagery of locations through the company's Google Maps product. The images are collected primarily by Street View cars, which include directional cameras to capture 360° views, a GPS unit for positioning and laser range scanners. *See* Google Maps with Street View, Behind the Scenes, *available at* http://maps.google.com/help/maps/streetview/behind-the-scenes.html#vehicles.

[2] *See* Official Google Blog, WiFi Data Collection: An Update (May 14, 2010), *available at* http://googleblog.blogspot.com/2010/05/wifi-data-collection-update.html.

Chairman Leibowitz highlighted some of these issues in his testimony before the Senate Commerce Committee on July 27, 2010.[3] As you know, the FTC has undertaken a project to re-examine its approach to consumer privacy in light of changing technologies and business practices.[4] During a series of public roundtables, panelists raised concerns about companies' collecting more consumer information than necessary to fulfill a legitimate business need. A related concern was that companies are storing consumer data for longer periods (at lower cost) and will find new uses for it that consumers may not have contemplated at the time of collection. Accordingly, panelists and commenters discussed the need for companies to build strong privacy protections into their products and business operations at the outset.

To this end, we note that Google has recently announced improvements to its internal processes to address some of the concerns raised above, including appointing a director of privacy for engineering and product management; adding core privacy training for key employees; and incorporating a formal privacy review process into the design phases of new initiatives. The company also publicly stated its intention to delete the inadvertently collected payload data as soon as possible.[5] Further, Google has made assurances to the FTC that the company has not used and will not use any of the payload data collected in any Google product or service, now or in the future. This assurance is critical to mitigate the potential harm to consumers from the collection of payload data.[6] Because of these commitments, we are ending our inquiry into this matter at this time.

We ask that the company continue its dialogue with the FTC about how best to protect consumer privacy as it develops its products and services.

Sincerely,

David Vladeck | KDR

David C. Vladeck

---

[3] *See* Prepared Statement of the Federal Trade Commission on Consumer Privacy before the Committee on Commerce, Science, and Transportation, United States Senate, at 22 (July 27, 2010), *available at* http://www.ftc.gov/os/testimony/100727consumerprivacy.pdf.

[4] *See* http://www.ftc.gov/bcp/workshops/privacyroundtables/index.shtml.

[5] *See* Official Google Blog, Creating Stronger Privacy Controls Inside Google (Oct. 22, 2010), *available at* http://googleblog.blogspot.com/2010/10/creating-stronger-privacy-controls.html.

[6] *See id.*

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 9:33 AM
To: Yodaiken, Ruth
Subject: Re: fyi - http://voices.washingtonpost.c-om/posttech/2010/10/_it_turns_out_googles.html

Thanks Ruth - Google WiFi is my personal hell!! :)
T

From: Yodaiken, Ruth
To: Ratte, Kathryn D.
Sent: Tue Oct 26 09:28:28 2010
Subject: FW: fyi - http://voices.washingtonpost.c-om/posttech/2010/10/_it_turns_out_googles.html

In case, for some bizarre reason, 12 people have not sent this to you already ☺

From: Brooke, J. Ronnie
Sent: Monday, October 25, 2010 2:28 PM
To: Yodaiken, Ruth
Subject: fyi - http://voices.washingtonpost.c-om/posttech/2010/10/_it_turns_out_googles.html

Not Responsive

From: Eichorn, Mark
Sent: Monday, October 25, 2010 4:11 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; Mithal, Maneesha
Subject: Re: call with Google's counsel

A good call from both wifi and buzz angles. Thanks.

From: Ratte, Kathryn D.
To: Mithal, Maneesha; Eichorn, Mark; Rich, Jessica L.
Cc: Brin, Katherine Race
Sent: Mon Oct 25 15:55:52 2010
Subject: call with Google's counsel

Katie and I just spoke with Google's counsel, and he was still very receptive to a public letter that mentions Google's commitment never to use the payload data in any Google product or service. I told him that we were aiming for having something out this week, but the timeline could slip, given our internal review processes. He seemed to understand. He also said that Google would likely respond with a statement confirming the assurance and otherwise responding to our letter, which seems appropriate.

Not Responsive

Katie and Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 3:52 PM
To: 'Gidari, Al (Perkins Coie)'; Brin, Katherine Race
Subject: RE: WiFi - Supplemental Response

Al – thanks for taking the time to chat with us just now. In case I didn't mention it on the call, we received (and appreciate) the attached follow-up information. Thanks! Katie and Katie

---

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 1:48 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: WiFi - Supplemental Response

Katie and Katie - here is the supplemental response. For something that says so little, it took longer than expected, but I'm sure you appreciate the time and effort it took to run down every possible engineering group who may have had a use for the WiFi data - no one wanted to make an error like the one that started this mess. So thank you for your patience and I'll talk to you in a while.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

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Not Responsive

From: Magee, Peder
Sent: Monday, October 25, 2010 2:07 PM
To: Ratte, Kathryn D.
Subject: RE: I have Julie Brill's handwritten edits now

Not at all, this seems very bad.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 1:33 PM
To: Magee, Peder
Subject: RE: I have Julie Brill's handwritten edits now

Oh my god, I hope you're joking.

From: Magee, Peder
Sent: Monday, October 25, 2010 1:32 PM
To: Ratte, Kathryn D.
Subject: RE: I have Julie Brill's handwritten edits now

Sorry about that.

Hey, have you heard about this?

http://voices.washingtonpost.com/posttech/2010/10/_it_turns_out_googles.html

should I forward to Bureau?

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 1:10 PM
To: Magee, Peder
Subject: RE: I have Julie Brill's handwritten edits now

(b)(5)

Not Responsive

Not Responsive

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 12:49 PM
To: Magee, Peder
Subject: RE: I have Julie Brill's handwritten edits now

The Google WiFi letter that is not a closing letter that took up my entire Saturday. Not Responsive

Not Responsive

From: Magee, Peder
Sent: Monday, October 25, 2010 12:48 PM
To: Ratte, Kathryn D.
Subject: RE: I have Julie Brill's handwritten edits now

About what are you speaking?

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 12:39 PM
To: Magee, Peder
Subject: RE: I have Julie Brill's handwritten edits now

Thank you very much. If I ever get off this call with Jessica and Maneesha, I'll swing by to get them.

From: Magee, Peder
Sent: Monday, October 25, 2010 12:35 PM
To: Ratte, Kathryn D.
Subject: RE: I have Julie Brill's handwritten edits now

I have them.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 12:15 PM
To: Magee, Peder
Subject: FW: I have Julie Brill's handwritten edits now

Could you do me the largest favor ever and get these from Maneesha? I don't need them any time soon. Not Responsive

Not Responsive

From: Mithal, Maneesha

Sent: Monday, October 25, 2010 9:32 AM
To: Magee, Peder; Ratte, Kathryn D.
Subject: I have Julie Brill's handwritten edits now

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 1:32 PM
To: Mithal, Maneesha; Rich, Jessica L.; Eichorn, Mark; Brin, Katherine Race; Shanoff, Carolyn
Subject: RE: talking points on wifi letter

These look good – (b)(5)
(b)(5) Maybe tweak the second point so that it says:

(b)(5)

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 1:27 PM
To: Rich, Jessica L.; Eichorn, Mark; Ratte, Kathryn D.; Brin, Katherine Race; Shanoff, Carolyn
Subject: talking points on wifi letter

Thoughts? Carolyn may want to weigh in, particularly on the last one.

(b)(3):21(f),(b)(5)

This incident shows how important it is for companies to have systems in place to manage data – they shouldn't collect what they don't need, they shouldn't keep it longer than necessary, and they should have policies and procedures in place to protect against inadvertent collection, use, and retention.

This incident also is a lesson for consumers – if they don't want the world to see their Internet activity, they should secure their wireless networks at home and at the office. If they're using the Internet from wi-fi hot spots, they should be particularly careful and assume that their activity is not secure.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 9:56 AM
To: Mithal, Maneesha
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

The first two are good (b)(5)

(b)(5)

-----Original Message-----
From: Mithal, Maneesha
Sent: Monday, October 25, 2010 9:53 AM
To: Ratte, Kathryn D.
Subject: FW: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

For your acceptance or rejection.

-----Original Message-----
From: Shanoff, Carolyn
Sent: Monday, October 25, 2010 9:53 AM
To: Mithal, Maneesha
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Hi --thanks. Good letter. Three nits in this paragraph you may want to consider:

(b)(5)

Carolyn S. Shanoff
Associate Director, Consumer and Business Education
Bureau of Consumer Protection
Federal Trade Commission
202.326.3268

-----Original Message-----
From: Mithal, Maneesha
Sent: Monday, October 25, 2010 9:44 AM
To: Shanoff, Carolyn
Subject: FW: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 4:18 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Incorporating Jessica's change to (b)(5)

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 12:56 PM
To: 'Gidari, Al (Perkins Coie)'
Cc: Brin, Katherine Race; 'Fahringer, Susan (Perkins Coie)'
Subject: RE: call this afternoon?

Great. We can adjust it if 3:30 doesn't work for Susan – I think we have some flexibility this afternoon. Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 12:54 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; Fahringer, Susan (Perkins Coie)
Subject: RE: call this afternoon?

let me see if Susan can make that time and then I'll send a bridge around

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(206) 407-6371 (M)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Monday, October 25, 2010 9:53 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: RE: call this afternoon?

Can we call you at 3:30 / 12:30 your time? If so, please let us know the best # to reach you. Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 12:45 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: call this afternoon?

yes, let me know what time works for you. I am just waiting on final approval on the wifi letter to you.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 1:08 PM
To: 'Gidari, Al (Perkins Coie)'
Cc: Brin, Katherine Race; 'Fahringer, Susan (Perkins Coie)'
Subject: RE: call this afternoon?

Thanks – much of what we're talking about is a head up on Wifi, so that should be fine. If we need to schedule additional time with Susan on the Buzz questions, we can do that. thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 12:58 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; Fahringer, Susan (Perkins Coie)
Subject: RE: call this afternoon?

actually, Susan is traveling today and I am tomorrow, so lets see if I can answer your questions and if not, we may need to call you back. So just call my cell phone at 1230 PDT or when convenient for you. Thanks.

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Monday, October 25, 2010 9:56 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race; Fahringer, Susan (Perkins Coie)
Subject: RE: call this afternoon?

Great. We can adjust it if 3:30 doesn't work for Susan – I think we have some flexibility this afternoon. Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 12:54 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race; Fahringer, Susan (Perkins Coie)
Subject: RE: call this afternoon?

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Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101

(206) 359-8688 (W)
(b)(6)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Monday, October 25, 2010 9:53 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: RE: call this afternoon?

Can we call you at 3:30 / 12:30 your time? If so, please let us know the best # to reach you. Thanks!

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Monday, October 25, 2010 12:45 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: RE: call this afternoon?

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Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

From: Ratte, Kathryn D. [mailto:KRATTE@ftc.gov]
Sent: Monday, October 25, 2010 9:45 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: call this afternoon?

Al – do you have time for a quick call this afternoon? The topics are: update on the FTC's WiFi letter and some additional Buzz information we will seek. Shouldn't take too long. Thanks!

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

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Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 9:43 AM
To: Mithal, Maneesha; Magee, Peder
Subject: RE: I have Julie Brill's handwritten edits now

I can swing by and pick them up after my conference call (ends at 11:30). I didn't have a chance to do any edits on the report this weekend because of the WiFi letter, but I hope to get a lot of them in today.

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 9:32 AM
To: Magee, Peder; Ratte, Kathryn D.
Subject: I have Julie Brill's handwritten edits now

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 9:17 AM
To: Eichorn, Mark
Cc: Brin, Katherine Race
Subject: FW: Google wi-fi - heads up for Monday
Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

FYI, this is the latest draft of the letter. Mark, I think the one you looked at Saturday night was not the latest. There were about 100 emails on Saturday, and I stopped cc'ing you two so you wouldn't come back to full mailboxes. I think at this point, Maneesha and Jessica are just moving this through the Chairman's office. Katie, our only to-do is to call Al, which we can hopefully do this afternoon. I have a conference call from 10-11:30 but am free after that.

From: Mithal, Maneesha
Sent: Saturday, October 23, 2010 9:41 PM
To: Matties, Deborah J.; DeLorme, Christine L.; Prewett, Cecelia; Farrell, Claudia B.; Harrison, Lisa M.; Sannappa, Nithan; Vandecar, Kim
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark; Rich, Jessica L.; Weinman, Yael
Subject: Google wi-fi - heads up for Monday

Hi all,

As many of you know, we've been taking a look at Google's inadvertent collection of consumer data from wireless networks, which was announced a few months ago. We've been in discussions with Google since then to learn more about what happened. Last week, we were in the process of drafting a public letter to Google wrapping up our discussions. They are aware that they may be getting some kind of public letter from us.

In the meantime, last week, probably in anticipation of the big privacy meeting in Jerusalem this week, Google announced several improvements to address the problems that arose from the wi-fi issue. In addition, the Canadian Privacy Commissioner released a letter outlining its concerns about the wi-fi issue and asking Google to implement that office's recommendations. The Spanish privacy office also made an announcement that it would be bringing enforcement action. We note, however, that Google's actions probably violated data collection laws in these countries (b)(5)
(b)(5)

Given these developments, we'd like to get our letter out as soon as possible so that we can also talk about the fact that we looked at their practices and that we separately got assurances from them that they wouldn't use the data they inadvertently collected. To have the most impact, we think it would be useful to get this out in time so that the FTC folks who are in Jerusalem can talk about it.

So sorry for the fire drill, but all of this external activity has just taken place over the past 24 hours. If we could get your comments on the letter as soon as possible Monday, that would be great. (Of course, we're not asking people to look at this over the weekend, just as early as possible Monday.) Thanks very much!

Not Responsive

From: Ratte, Kathryn D.
To: Weinman, Yael
Sent: Sat Oct 23 14:55:05 2010
Subject: RE: BNA article on Google WiFi

Great minds! FYI, David is gunning to have us finish our letter this week because he wants to announce it in Jerusalem. So fun Saturday for me.

From: Weinman, Yael
Sent: Saturday, October 23, 2010 2:54 PM
To: Ratte, Kathryn D.
Subject: Re: BNA article on Google WiFi

Yes - saw it this morning and sent to them. Thanks!!

From: Ratte, Kathryn D.
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark; Weinman, Yael; Brin, Katherine Race
Sent: Sat Oct 23 14:52:05 2010
Subject: BNA article on Google WiFi

Here's an article on the actions Canada and Spain are taking on the Google WiFi snafu (Spain is going the fines and penalties route, but I think that's what they always do). Yael, you might want to highlight this for David and Commissioner Brill, in case there is more specific discussion on this in Jerusalem. Have a great trip!

Enforcement
Spain, Canada: Google WiFi Snafu Broke Law;
DPAs Take Divergent Data Enforcement Paths
The Spanish Data Protection Authority (AEPD) Oct. 18, and the Office of the Privacy Commissioner of Canada Oct. 19, announced that their separate investigations of Google Inc.'s collection of user internet content data from unsecured wireless connections violated their

respective nations' privacy laws.

The DPAs, however, had different enforcement responses to their investigative findings.

The AEPD said it has started enforcement proceedings, which could eventually result in financial sanctions of more than $3 million. The Canadian Privacy Office said it sent a letter to Google, asking the company to promise to change certain practices and report back to the office by early 2011.

Google in mid-May revealed what it said was its inadvertent collection of WiFi location and content data with equipment mounted on its Street View mapping project photographic image collection vehicles (9 PVLR 770, 5/24/10).

Spain Awaits Court Decision

In an Oct. 18 statement, Spain's AEPD said its investigation of Google's WiFi collection revealed two "serious" and three "very serious" violations of the country's Organic Data Protection Act (Law 15/1999, LOPD) and as a result had initiated sanctions proceedings against Google and Google Spain.

The serious infractions included the non-consensual capturing and storage of some 13 gigabytes of personal data, such as the names of Wi-Fi account owners, their e-mail addresses, e-mail messages, and instant messaging messages. "Very serious" infractions included the capture of data, such as codes and passwords, allowing access to "especially protected data."

The AEPD also said it had detected international data transfers to the United States, carried out by Google without "respect for the guarantees foreseen in the LOPD," which is also classified as a very serious infraction.

In total, the five infractions could bring fines of up to €2.4 million ($3.3 million). While "serious" breaches of the LOPD can bring fines of anywhere between €60,101 ($83,000) and €300,506 ($415,000), "very serious" infractions can bring fines of up to €601,012 ($830,000). Commercial benefit from an infraction is one of the factors the AEPD takes into account when assessing the highest fines. Google has said it made no commercial use of the collected WiFi data.

The imposition of any fines will have to await the resolution of a similar case against Google in a Madrid court, the AEPD said. In order to avoid fining Google twice for the same infractions, the AEPD said it would temporarily suspend the sanctions process until a proceeding, which it did not identify by name, was resolved by a Madrid Examining Magistrate's Court.

The AEPD said it has sent its internal investigation report, which it declined to make public, to the Magistrate's Court.

Canada Seeks Reform Assurances

Federal Privacy Commissioner Jennifer Stoddart said Oct. 19 that Google's WiFi collection of potentially thousands of Canadians' personal information violated the Personal Information Protection and Electronic Documents Act.

"Our investigation shows that Google did capture personal information—and, in some cases, highly sensitive personal information such as complete e-mails. This incident was a serious violation," Stoddart said in a statement.

The investigation, which included a site visit to Google headquarters in Mountain View, Calif, confirmed that Google collected user names and passwords and very sensitive data, such as a list of people suffering from medical conditions and their telephone numbers and addresses, she said.

The Office of the Privacy Commissioner has asked Google to address the incident by ensuring that it has a governance model in place that complies with privacy laws, including controls to ensure that necessary privacy protection procedures are followed before products are launched, she said.

In a preliminary letter of findings, the office also recommended enhanced privacy training for Google employees, designation of an individual responsible for privacy issues, and deletion by Google of the Canadian data it collected or measures to secure it if it needs to be retained as evidence for legal proceedings, Stoddart said.

The case will be considered resolved if the privacy agency receives confirmation by Feb. 1, 2011 that Google has fully implemented the recommendations, she said.

Stoddart agreed with Google's assertion that it mistakenly collected the WiFi data at issue. She said that "this incident was the result of a careless error" but added that the mistake was "one that could easily have been avoided" had proper privacy safeguards been in place.

In addition to actions by privacy regulators, Google is facing at least eight consolidated consumer class actions in federal court over its interception of internet data from unsecured wireless connections (9 PVLR 1249, 9/6/10).

By Brett Allan King (Madrid)
and Peter Menyasz (Ottawa)

The Office of the Privacy Commissioner of Canada's "Preliminary Letter of Findings" is available at http://www.priv.gc.ca/media/nr-c/2010/let_101019_e.cfm.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 3:55 PM
To: Rich, Jessica L.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Cc: Weinman, Yael; Stevenson, Hugh G.
Subject: FW: Google announcement on privacy process improvements

Hold the presses – Google just announced process improvements driven by the WiFi debacle (no doubt, in prep for the conversation in Jerusalem). See below. We will review these and see if the letter needs tweaking based on what they have planned. Thanks!

From: Will DeVries [mailto:wdevries@google.com]
Sent: Friday, October 22, 2010 3:51 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Cc: Gidari, Al (Perkins Coie)
Subject: Google announcement on privacy process improvements

Dear Katie and Katie,

I wanted to pass on an announcement Google made today regarding our internal privacy processes. These changes have been driven, in part, by our effort to avoid any repeat of the mistakes made in the WiFi payload data incident.

In essence, we have updated our people, our training, and our compliance with respect to privacy. Alma Whitten, a long-time leader of our privacy and security engineering team, will become Google's Director of Privacy Engineering and Product Management. She will have an expanded team and responsibility to oversee privacy and security across Google. We're also implementing a strengthened privacy and security training program and new privacy design documentation requirements.

Below is the full text of our announcement. You can also read our post at http://googleblog.blogspot.com/2010/10/creating-stronger-privacy-controls.html.

Please feel free to contact me with any questions or feedback on this announcement.

Sincerely,

Will

Creating stronger privacy controls inside Google

10/22/2010 12:00:00 PM

(Cross-posted on the Public Policy and European Public Policy Blogs)

In May we announced that we had mistakenly collected unencrypted WiFi payload data (information sent over networks) using our Street View cars. We work hard at Google to earn your trust, and we're acutely aware that we failed badly here. So we've spent the past several months looking at how to

strengthen our internal privacy and security practices, as well as talking to external regulators globally about possible improvements to our policies. Here's a summary of the changes we're now making.

- First, **people**: we have appointed Alma Whitten as our director of privacy across both engineering and product management. Her focus will be to ensure that we build effective privacy controls into our products and internal practices. Alma is an internationally recognized expert in the computer science field of privacy and security. She has been our engineering lead on privacy for the last two years, and we will significantly increase the number of engineers and product managers working with her in this new role.
- Second, **training**: All our employees already receive orientation training on Google's privacy principles and are required to sign Google's Code of Conduct, which includes sections on privacy and the protection of user data. However, to ensure we do an even better job, we're enhancing our core training for engineers and other important groups (such as product management and legal) with a particular focus on the responsible collection, use and handling of data. In addition, starting in December, all our employees will also be required to undertake a new information security awareness program, which will include clear guidance on both security and privacy.
- Third, **compliance**: While we've made important changes to our internal compliance procedures in the last few years, we need to make further changes to reflect the fact that we are now a larger company. So we're adding a new process to our existing review system, in which every engineering project leader will be required to maintain a privacy design document for each initiative they are working on. This document will record how user data is handled and will be reviewed regularly by managers, as well as by an independent internal audit team.

We believe these changes will significantly improve our internal practices (though no system can of course entirely eliminate human error), and we look forward to seeing the innovative new security and privacy features that Alma and her team develop. That said, we'll be constantly on the lookout for additional improvements to our procedures as Google grows, and as we branch out into new fields of computer science.

Finally, I would like to take this opportunity to update one point in my May blog post. When I wrote it, no one inside Google had analyzed in detail the data we had mistakenly collected, so we did not know for sure what the disks contained. Since then a number of external regulators have inspected the data as part of their investigations (seven of which have now been concluded). It's clear from those inspections that while most of the data is fragmentary, in some instances entire emails and URLs were captured, as well as passwords. We want to delete this data as soon as possible, and I would like to apologize again for the fact that we collected it in the first place. We are mortified by what happened, but confident that these changes to our processes and structure will significantly improve our internal privacy and security practices for the benefit of all our users.

Posted by Alan Eustace, Senior VP, Engineering & Research

--

Will DeVries | Policy Counsel | Google Inc. | 202.346.1227 | wdevries@google.com

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 3:54 PM
To: 'Will DeVries'; Brin, Katherine Race
Cc: 'Gidari, Al (Perkins Coie)'
Subject: RE: Google announcement on privacy process improvements

Thanks Will – we will have a look and let you know if we have questions. Have a great weekend! Katie

---

From: Will DeVries [mailto:wdevries@google.com]
Sent: Friday, October 22, 2010 3:51 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
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talking to external regulators globally about possible improvements to our policies. Here's a summary of the changes we're now making.

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Posted by Alan Eustace, Senior VP, Engineering & Research

--

Will DeVries | Policy Counsel | Google Inc. | 202.346.1227 | wdevries@google.com

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 12:09 PM
To: Eichorn, Mark; Brin, Katherine Race; Mithal, Maneesha
Subject: RE: wifi letter

I'm probably going to take the report edits home in an hour or two and work on them there (I'm technically on AWS and still feeling a bit crummy). If you want to discuss the letter, can we do it soonish?

From: Eichorn, Mark
Sent: Friday, October 22, 2010 10:54 AM
To: Brin, Katherine Race; Mithal, Maneesha; Ratte, Kathryn D.
Subject: RE: wifi letter

No problem. Katie just came by and said you all are working on some edits, so we'll use that version.

From: Brin, Katherine Race
Sent: Friday, October 22, 2010 10:50 AM
To: Eichorn, Mark; Mithal, Maneesha; Ratte, Kathryn D.
Subject: RE: wifi letter

Hmmm...guess we should coordinate better re who is making edits. Katie R. just went through the letter with fresh eyes, and I think her edits make a lot of sense. I'm adding one or two more things and will circulate shortly. Sorry for the parallel work.

From: Eichorn, Mark
Sent: Friday, October 22, 2010 10:47 AM
To: Mithal, Maneesha; Ratte, Kathryn D.; Brin, Katherine Race
Subject: RE: wifi letter

(b)(5) [redacted]

(b)(5) [redacted] Let me know what you all think.

From: Mithal, Maneesha
Sent: Friday, October 22, 2010 9:45 AM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: wifi letter

Here are some edits. Let me explain:

(b)(5)

(b)(5) See what you think of how I reworded it.

Happy to talk further by email or in person, though I have to take the 9:50 shuttle and will probably not be back till around lunchtime. Thanks!

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 11:36 AM
To: Brin, Katherine Race
Subject: RE: wifi letter

Well done (and well said). Hopefully they will forward this one on…

From: Brin, Katherine Race
Sent: Friday, October 22, 2010 11:26 AM
To: Eichorn, Mark; Mithal, Maneesha; Ratte, Kathryn D.
Subject: RE: wifi letter

Here are our edits and a compare to the version Maneesha sent around earlier. (b)(5)

(b)(5)

Let us know your thoughts. Thanks!

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 10:30 AM
To: Brin, Katherine Race
Subject: better?
Attachments: Vladeck Google WiFi letter 10 21 10 Final mm kdr edits.wpd; redline 10 22 10.wpd

The redline is to the version Maneesha sent just now.

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 22, 2010 9:15 AM
To: Mithal, Maneesha; Brin, Katherine Race
Cc: Eichorn, Mark
Subject: RE: Updated WiFi letter

I will hold off on mine, then – (b)(5) (b)(5) But those are minor.

From: Mithal, Maneesha
Sent: Friday, October 22, 2010 9:01 AM
To: Brin, Katherine Race
Cc: Eichorn, Mark; Ratte, Kathryn D.
Subject: RE: Updated WiFi letter

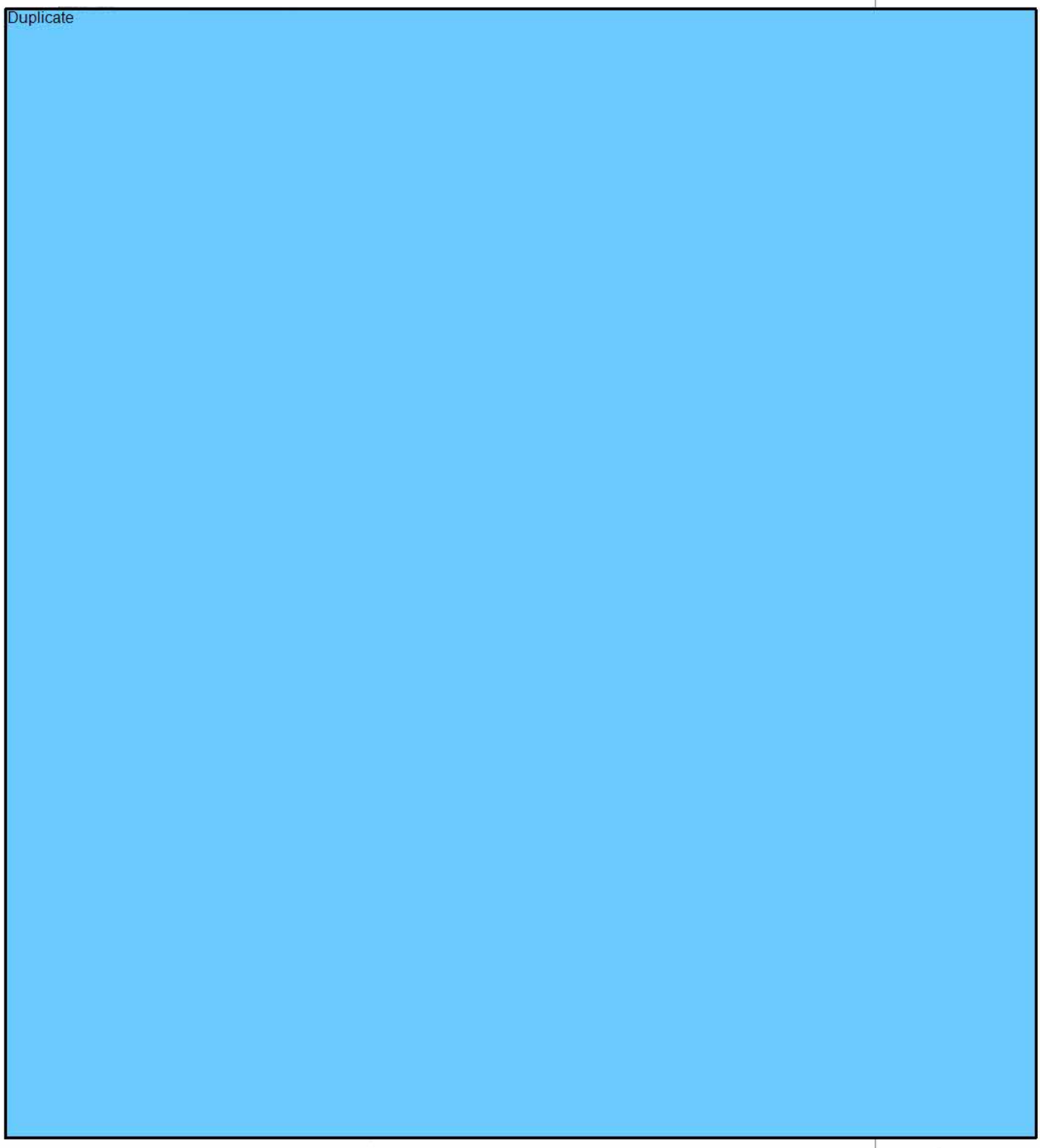
Looks good – I'll send some edits in a minute.

Duplicate

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Thursday, October 21, 2010 6:33 PM
To: Eichorn, Mark; Brin, Katherine Race; Mithal, Maneesha
Subject: RE: Updated WiFi letter

Sorry I've been out of commission for a few days, but I plan to come in tomorrow and will take a look first thing. Thanks!



Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 2:22 PM
To: Eichorn, Mark
Cc: Brin, Katherine Race
Subject: revised Google letter
Attachments: Vladeck Google WiFi letter 10 20 10.wpd; Compare Vladeck Google Wifi letter 10 20 10.wpd

Mark – here's a revised version of the Wi-Fi letter and a compare. (b)(5)

(b)(5)

Take a look and see what you think. When we discuss this with Maneesha, we should highlight that some of the DPAs plan to talk about this at the OECD mtg in Jerusalem next week, so we should give David a heads up.

Katie and Katie

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 12:13 PM
To: Brin, Katherine Race
Subject: Google letter
Attachments: Vladeck Google WiFi letter 10 20 10.wpd; Compare Vladeck Google Wifi letter 10 20 10.wpd

Rather than coming down to breathe on you, here's another version of the letter and a compare. (b)(5)

(b)(5)

(b)(5) What do you think? If you're okay with the letter as is, feel free to send to Mark.

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 9:49 AM
To: Eichorn, Mark; Brin, Katherine Race
Subject: Re: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

----- Original Message -----
From: Eichorn, Mark
To: Ratte, Kathryn D.; Brin, Katherine Race
Sent: Wed Oct 20 09:45:03 2010
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 7:08 PM
To: Eichorn, Mark; Brin, Katherine Race
Subject: Re: Emailing: Vladeck Google WiFi letter.10.18.10

We'll take a look at the letter tomorrow and make sure the language is general enough so that it's not referring to any nonpublic information. (b)(5)

(b)(5)

----- Original Message -----
From: Eichorn, Mark
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Sent: Tue Oct 19 18:31:03 2010
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 6:28 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(5)

-----Original Message-----
From: Eichorn, Mark
Sent: Tuesday, October 19, 2010 6:23 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Thanks. (b)(5)

(b)(5)

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 6:16 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

(b)(3):21(f),(b)(5)

-----Original Message-----
From: Eichorn, Mark
Sent: Tuesday, October 19, 2010 6:13 PM
To: Brin, Katherine Race
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Thanks. This letter looks great, I just have one question: is our second area of concern based on public information?

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 2:09 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: Emailing: Vladeck Google WiFi letter.10.18.10

Mark: Here is our draft letter to Google re: WiFi. We are getting some additional information from the company either later today or tomorrow, but we don't think it should change the substance of the letter much, if at all. Let us know your thoughts.

Thanks,
Katie

The message is ready to be sent with the following file or link attachments:

Vladeck Google WiFi letter.10.18.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 9:44 AM
To: Brin, Katherine Race
Subject: Re: WiFi Update

My calendar should be up to date - I think I have a call in the morning, but I should be free all afternoon. Thanks!

From: Brin, Katherine Race
To: Ratte, Kathryn D.
Sent: Wed Oct 20 09:25:13 2010
Subject: RE: WiFi Update

Monday is fine with me. I'll get back to him. Is there a particular time on Monday that works for you, or should I just go by your calendar?

Not Responsive

Sorry you're still not feeling well.

From: Ratte, Kathryn D.
Sent: Wednesday, October 20, 2010 8:39 AM
To: Brin, Katherine Race
Subject: FW: WiFi Update

This sounds good to me, although I'm off Friday and will be visiting my parents in Minnesota. Can we ask him for a Monday time instead and do the Buzz supplemental information then? We may be able to give him an update on the letter at that point.

I'm coming in for Ethics training at 10 and will see how long I last after that. So see you around 11:30 (though I don't want to get you sick too).

From: Gidari, Al (Perkins Coie) [mailto:AGidari@perkinscoie.com]
Sent: Tuesday, October 19, 2010 10:11 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: WiFi Update

Hi Katies - I didn't get sign off on the supplemental letter to you today but hope to be able to send it tomorrow. I will let you know. We were a little busy today as the Canadian OPC published their report on their WiFi inquiry. If you haven't seen it, you can find it here: http://www.priv.gc.ca/media/nr-c/2010/let_101019_e.cfm We are happy to see Canada complete its review. We expect more activity in the EU ahead, and as I mentioned, we will be announcing some process improvements ourselves. If all stays the course, maybe we can catch up on Friday with you to discuss the process changes - are you both around Friday?

Again, thanks for your patience with the supplemental response - I really hope to have signoff tomorrow morning.

Al

Albert Gidari
Perkins Coie LLP
1201 Third Avenue
Suite 4800
Seattle, WA 98101
(206) 359-8688 (W)
(b)(6)

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Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 3:58 PM
To: Brin, Katherine Race
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Thanks Katie!

-----Original Message-----
From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 2:09 PM
To: Eichorn, Mark
Cc: Ratte, Kathryn D.
Subject: Emailing: Vladeck Google WiFi letter.10.18.10

Mark: Here is our draft letter to Google re: WiFi. We are getting some additional information from the company either later today or tomorrow, but we don't think it should change the substance of the letter much, if at all. Let us know your thoughts.

Thanks,
Katie

The message is ready to be sent with the following file or link attachments:

Vladeck Google WiFi letter.10.18.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 18, 2010 12:59 PM
To: Brin, Katherine Race
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

I'm back - report meeting, and then I went out to get a salad.

-----Original Message-----
From: Brin, Katherine Race
Sent: Monday, October 18, 2010 11:57 AM
To: Ratte, Kathryn D.
Subject: RE: Emailing: Vladeck Google WiFi letter.10.18.10

Sorry about that. Let me know when you're back and I can come by.

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Monday, October 18, 2010 10:42 AM
To: Brin, Katherine Race
Subject: Emailing: Vladeck Google WiFi letter.10.18.10

Hopefully this captures what we talked about last week. (b)(5) (b)(5) See what you think.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 10:00 AM
To: 'Daniel Caron'
Subject: RE: OPC's News Release Re Google Wifi Incident

And congratulations! Big score for your office.

From: Daniel Caron [mailto:Daniel.Caron@priv.gc.ca]
Sent: Tuesday, October 19, 2010 9:48 AM
To: Ratte, Kathryn D.
Subject: Re: OPC's News Release Re Google Wifi Incident

Hi Katie,

As mentioned yesterday, here is a link to our news release, and our preliminary letter in the Google WiFi matter:

News Release: http://www.priv.gc.ca/media/nr-c/2010/nr-c_101019_e.cfm

Preliminary letter of findings: http://www.priv.gc.ca/media/nr-c/2010/let_101019_e.cfm

Dan

Daniel Caron
Conseiller juridique/Legal Counsel
Direction des services juridiques, des politiques et des affaires parlementaires/Legal Services, Policy and Parliamentary Affairs Branch
Commissariat à la protection de la vie privée du Canada/Office of the Privacy Commissioner of Canada
Place de Ville, Tour/Tower B
112, rue Kent Street, 3ième étage/3rd Floor
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☎ (613) 947-4634 613-947-4192 daniel.caron@priv.gc.ca

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Pensez à l'environnement avant d'imprimer / Think about the environment before printing

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 9:49 AM
To: 'Daniel Caron'
Subject: RE: OPC's News Release Re Google Wifi Incident

Thanks Dan! I had just pulled it up. Talk to you soon – Katie

---

From: Daniel Caron [mailto:Daniel.Caron@priv.gc.ca]
Sent: Tuesday, October 19, 2010 9:48 AM
To: Ratte, Kathryn D.
Subject: Re: OPC's News Release Re Google Wifi Incident

Hi Katie,

As mentioned yesterday, here is a link to our news release, and our preliminary letter in the Google WiFi matter:

News Release: http://www.priv.gc.ca/media/nr-c/2010/nr-c_101019_e.cfm

Preliminary letter of findings: http://www.priv.gc.ca/media/nr-c/2010/let_101019_e.cfm

Dan

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Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Monday, October 18, 2010 1:58 PM
To: Mithal, Maneesha
Subject: RE: update from Canada on WiFi

(just wanted to make sure you had something to forward in case you get an email from the Bureau once the OPC report comes out tomorrow)

From: Mithal, Maneesha
Sent: Monday, October 18, 2010 1:57 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: update from Canada on WiFi

Excellent!

From: Ratte, Kathryn D.
Sent: Monday, October 18, 2010 1:57 PM
To: Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: update from Canada on WiFi

Hi everyone – I talked to Dan Caron again today, and Canada is coming out with preliminary findings on Google Wi-Fi tomorrow. Usually they come out with a final report, but this time, they are calling for the company to implement new procedures, so they are giving them some time to do so before the final report. The final report is due in May. The preliminary report will cite violations of PIPEDA's data collection requirements and will include examples of snippets of data found in the payload. (b)(5)

(b)(5)

Katie and I have a draft letter from David to Google on this, but we'll hold on to it until we see Canada's report to make sure there's nothing for us to add. But we'll have it to you shortly.

Thanks! Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 10:16 AM
To: Brin, Katherine Race
Subject: RE: google

Thanks!

From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 10:15 AM
To: Ratte, Kathryn D.
Subject: RE: google

Ok. Good luck!

From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 10:15 AM
To: Brin, Katherine Race
Subject: RE: google

(b)(5)

Here's the letter in case Mark asks for it while I'm on the Hill (ugh). It's also on the K drive in our Google WiFi folder.

From: Brin, Katherine Race
Sent: Tuesday, October 19, 2010 10:11 AM
To: Ratte, Kathryn D.
Subject: RE: google

This is interesting. I don't think it really changes our letter much, save for the extra sentence you were already going to add. (b)(5)
(b)(5)

From: Ratte, Kathryn D.
Sent: Tuesday, October 19, 2010 9:48 AM
To: Brin, Katherine Race; Eichorn, Mark; Mithal, Maneesha
Subject: google

The Google preliminary letter of findings is out:

http://priv.gc.ca/media/nr-c/2010/let_101019_e.cfm

I'll take a look and see if we need to add anything to the letter and then send the letter this afternoon.

Kathryn Ratté

Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Thursday, October 14, 2010 11:16 AM
To: Gidari, Al (Perkins Coie)
Cc: Brin, Katherine Race
Subject: WiFi follow up

Hi Al,

Just touching base to see when you might be able to get us the answers to the follow-up WiFi questions we discussed a couple of weeks ago.

Thanks! Katie and Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 13, 2010 12:50 PM
To: Brin, Katherine Race
Subject: Accepted: Buzz & WiFi update

Thanks! Was just going to do the same thing.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 13, 2010 11:22 AM
To: Brin, Katherine Race
Subject: woo!

(b)(5)

(b)(5)

(b)(5) And I still plan to do a first draft of the WiFi letter today or tomorrow.

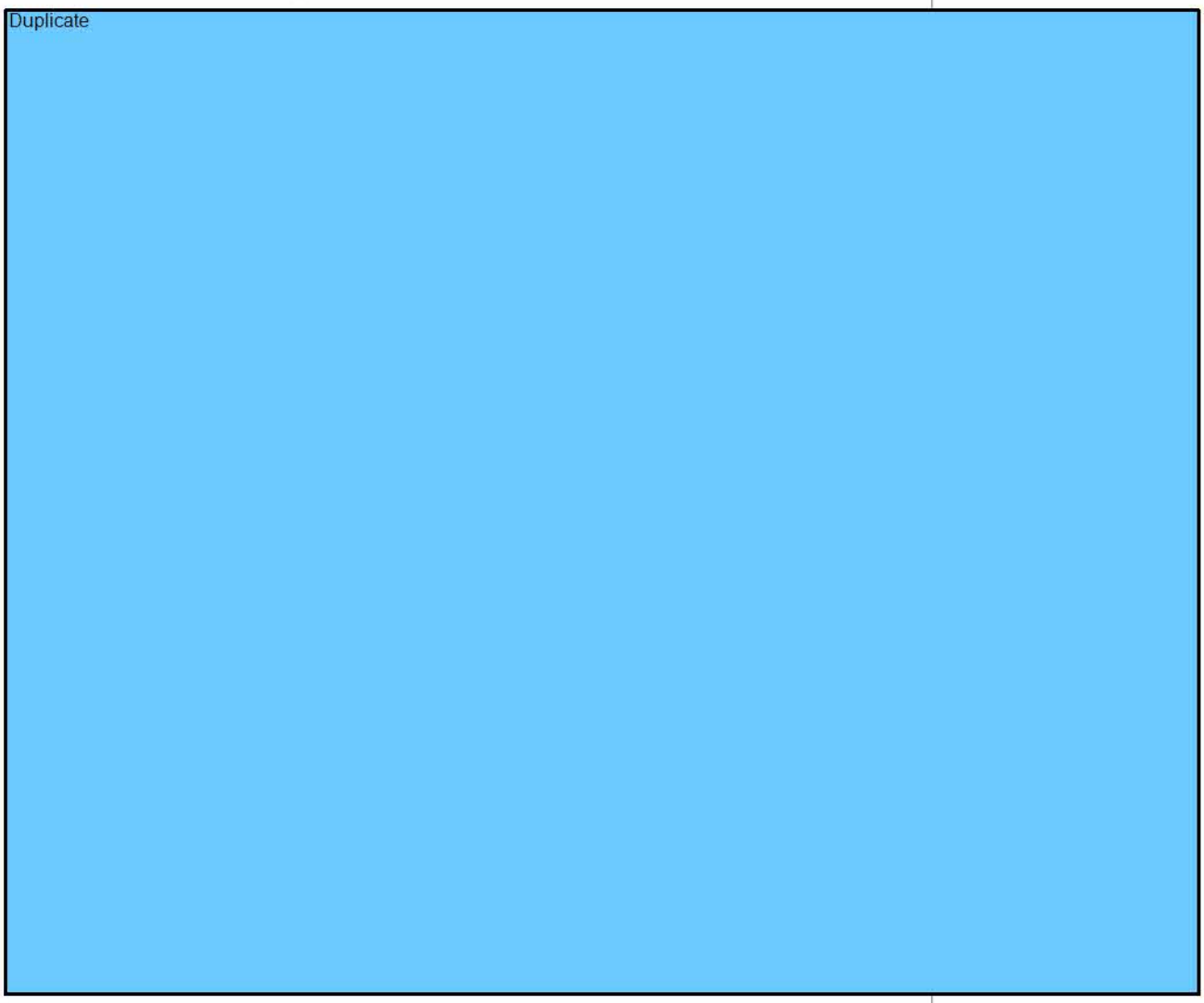
Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Tuesday, October 12, 2010 4:59 PM
To: Brin, Katherine Race
Subject: RE: Google update

No – I was just thinking that's pretty unusual for them.

From: Brin, Katherine Race
Sent: Tuesday, October 12, 2010 4:30 PM
To: Ratte, Kathryn D.
Subject: RE: Google update

Did we ever hear back from these guys?



Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Wednesday, October 13, 2010 12:27 PM
To: Brin, Katherine Race; Mithal, Maneesha; Eichorn, Mark
Subject: Re: Google Buzz update

I have a mtg from 9:30-10:30 (in Olsen's office) but free otherwise. 10:30?

From: Brin, Katherine Race
To: Mithal, Maneesha; Ratte, Kathryn D.; Eichorn, Mark
Sent: Wed Oct 13 12:17:23 2010
Subject: RE: Google Buzz update

That's fine with me.

From: Mithal, Maneesha
Sent: Wednesday, October 13, 2010 12:07 PM
To: Ratte, Kathryn D.; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: Google Buzz update

Can we do tomorrow morning?

From: Ratte, Kathryn D.
Sent: Wednesday, October 13, 2010 11:49 AM
To: Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: Google Buzz update

Katie and I are nearing the end of the documents (yay!), so we thought now would be a good time to check in on Buzz and WiFi. Would tomorrow after the staff meeting work? It shouldn't take too long.

Ratte, Kathryn D.

From: Ratte, Kathryn D.
Sent: Friday, October 08, 2010 1:39 PM
To: Brin, Katherine Race
Subject: (b)(5)

(b)(5)

From: Brin, Katherine Race
Sent: Friday, October 08, 2010 1:39 PM
To: Ratte, Kathryn D.
Subject: (b)(5)

Chris is all-knowing.

From: Ratte, Kathryn D.
Sent: Friday, October 08, 2010 1:35 PM
To: Olsen, Christopher
Cc: Brin, Katherine Race
Subject: (b)(5)

(b)(5)

From: Olsen, Christopher
Sent: Friday, October 08, 2010 1:19 PM
To: Ratte, Kathryn D.
Cc: Brin, Katherine Race
Subject: (b)(5)

(b)(5)

From: Ratte, Kathryn D.
Sent: Thursday, October 07, 2010 5:53 PM
To: Olsen, Christopher
Cc: Brin, Katherine Race
Subject: (b)(5)

Hi Chris,

(b)(5)

(b)(5) [redacted]

Thanks for any information you can provide.
KD and KT

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

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

Albert Gidari, Esq.
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

June 9, 2010

Dear Al,

This notifies you of an official request for information that the Federal Trade Commission has received from Chairman Markey and Ranking Member Barton of the Subcommittee on Energy and the Environment, House Committee on Energy and Commerce. The Subcommittee has requested a staff briefing on Google's collection of consumer information from Wi-Fi networks in connection with its Street View product. Certain information you provided may be responsive to this request.

The Commission routinely receives official requests for confidential information from congressional committees and subcommittees. Neither the Freedom of Information Act, 5 U.S.C. § 552(d), nor the Federal Trade Commission Act, 15 U.S.C. § 57b-2(d)(1)(A), authorize the Commission to withhold such information from congressional committees or subcommittees. The Commission, of course, requests that the responsive information and materials be kept confidential by the congressional committees and subcommittees.

If you have any questions about the Subcommittee's inquiry or handling of information it has requested, please direct them to Subcommittee Counsel Mark Bayer at (202) 225-2836. Questions about the Commission's response may be directed to Kathryn Ratté at (202) 326-3514.

Sincerely,

Maneesha Mithal / KDR

Maneesha Mithal
Associate Director
Division of Privacy and Identity Protection

cc: Office of General Counsel

Congress of the United States
Washington, DC 20515

May 24, 2010

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Chairman Leibowitz:

We write to request a confidential staff briefing on recent revelations that Google captured consumers' Wi-Fi signals while developing its Street View mapping feature. We hope to set up a briefing at your earliest possible convenience.

We understand the sensitivity of discussing such matters, and neither we nor our staffs will disclose any non-public information that your staff provides during the briefing.

Thank you for your assistance in this matter.

Very respectfully yours,

Edward J. Markey
Chairman, Energy and Commerce Subcommittee
on Energy and the Environment

Joe Barton
Ranking Member
Committee on Energy and Commerce

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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6115

MAJORITY (202) 225-2927
FACSIMILE (202) 225-2525
MINORITY (202) 225-3641

energycommerce.house.gov

May 26, 2010

Mr. Eric E. Schmidt
Chairman & Chief Executive Officer
Google Inc.
1600 Amphitheatre Parkway
Mountain View, CA 94043

Dear Mr. Schmidt:

We are writing with respect to recent reports that Google has gathered huge amounts of data sent over private Wi-Fi networks while documenting the streets of our country for its Google Street View product. We are interested in the nature of this data collection, the underlying technology your fleet of Street View cars employed, the use of the information collected, and the impact it could have on consumer privacy.

We understand that this data collection first came to light in Europe, but it now appears based on media reports that this practice was pervasive in the United States as well. According to one report, Google gathered more than 600 gigabytes of data from Wi-Fi networks in more than 30 countries. Presumably this data could include personal emails, health and financial information, and search and surfing habits. As you may know, questions have been raised regarding the applicability to such practices of Section 5 of the Federal Trade Commission Act, as well as the privacy protections contained in the Communications Act of 1934, the Electronic Communications Privacy Act, and other statutes.

In particular, we are concerned that Google did not disclose until long after the fact that consumers' Internet use was being recorded, analyzed and perhaps profiled. In addition, we are concerned about the completeness and accuracy of Google's public explanations about this matter. For example, on April 27, 2010, a Google blog post contained inaccurate information about whether payload data was collected. However, a Google executive on May 14, 2010, admitted in Google's official blog that the company had "been mistakenly collecting samples of payload data from open (i.e., non-password-protected) Wi-Fi networks." Accordingly, we

request responses to the following questions in order for us to better understand the nature of the collection practices, its possible impact on consumers, and the broader public policy implications of this practice.

1. What percentage of United States roads have been documented for Google Street View?

2. Over what time period did the collection of information for Google Street View take place or, if roads are visited by Google Street View vehicles more than once, what is the schedule for return visits to roads?

3. Have all Street View vehicles documenting United States roads been engaged in the monitoring or data collection of Wi-Fi transmissions at all times during those activities? If the answer is no, please explain in detail in what communities the monitoring or data collection was conducted and the reasons that these communities were chosen for monitoring or data collection.

4. How many Wi-Fi networks across the country have been logged since Google began its Street View program? How many consumers were subject to the data collection?

5. Was any notification of this monitoring and data collection made to affected communities prior to deploying Street View vehicles, and was consent sought from consumers? If so, please explain the notice and consent procedures involved. If not, please explain why this was not done.

6. Has Google at any time conducted a legal analysis regarding the applicability of consumer privacy laws on the monitoring and data collection of Wi-Fi transmissions? If so, please provide a copy of this analysis.

7. Please explain why Google chose to collect the data and how it intended to use the data.

8. What is the status of the consumer data collected? Has it been analyzed and used in any way? Does Google have plans to use it in the future? Please explain in detail.

9. Has the collected data been destroyed? If yes, when and by which method(s)? If not, why not?

10. What is the status of Google's internal review of Street View's monitoring and data collection practices to ensure adequate controls? What is the methodology? When did the review start? Who is conducting the review? Are there any interim findings? When is it expected to be completed? Will the review, or portions of it, be made available to the public?

11. What is Google's process to ensure that data collection associated with new products and services offered by the company is adequately controlled?

12. Has Google asked a third party to review the software at issue? If so, who is the third party, and what is the nature of the review?

Thank you in advance for your attention to this matter. We respectfully request a response by Monday, June 7, 2010.

Sincerely,

Henry A. Waxman
Chairman

Joe Barton
Ranking Member

Edward Markey
Member

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

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ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115

MAJORITY (202) 225-2927
FACSIMILE (202) 225-2525
MINORITY (202) 225-3641

energycommerce.house.gov

May 19, 2010

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Dear Chairman Leibowitz:

We write regarding the recent revelations that Google captured consumers' Wi-Fi signals while developing its street view mapping feature. As described in the attached article, Google collected more than just pictures when its camera-equipped vehicles drove through neighborhoods: it also recorded Wi-Fi signals and their associated Service Set Identifiers (Identifiers).

Google also admitted that, in addition to capturing Identifiers, it gathered information sent over those Wi-Fi networks. Thus far, Google has acknowledged it collected private email and Internet surfing data, but it has not yet clarified the extent or nature of the data collected. Accordingly, we request your response to the following questions:

1. Is the Federal Trade Commission (FTC) investigating this matter?
2. What is the Commission's understanding of the type and nature of information collected and how is the captured data stored? Who had access to this data?
3. Do Google's data collection practices with respect to Wi-Fi networks violate the public's reasonable expectation of privacy? Did Google collect passwords associated with Internet usage by consumers?
4. Do Google's actions form the basis of an unfair or deceptive act or practice that constitutes harm to consumers? Please explain your response.
5. Are Google's actions illegal under Federal law? If these allegations warrant Commission action, does the Commission believe it currently has authority to take necessary action?

If not, please describe legislative language you would recommend to enable the Commission to act appropriately.

Thank you for your attention to this matter and we would appreciate your response by June 2, 2010.

Sincerely,

Ed Markey
Member

Joe Barton
Ranking Member

cc: The Honorable Henry A. Waxman

The Christian Science Monitor

What's so bad about the Google Street View data flap?

The revelation that Google Street View cars accidentally recorded personal data from 'open' WiFi networks has Germany and privacy advocates upset.

Google Street View cars equipped with special cameras are seen at the CeBIT technology show in Hanover, Germany March 3.
(Daniel Mihailescu/AFP/Newscom)

By Andrew Heining, Staff writer
posted May 15, 2010 at 3:45 pm EDT

Privacy conspiracy theorists hit the mother lode Friday with Google's blog post detailing its inadvertent collecting of snippets of personal data from Google Street View cars in Europe. But why all the fuss?

Google Street View, for the uninitiated, is the photo-based online mapping add-on Google rolled out in 2007. Images taken by specially outfitted cars are paired to GPS coordinates and, when viewed online, present an "as if you were there" view of the searched-for address.

The program has met with with equal parts embrace and hostility. Wayward travelers appreciate the ability to see what an unfamiliar place looks like before venturing out – or even on-the-spot, using a mobile device. Governments and advocates have raised concerns grounded in homeland security, privacy, and data retention policies. Google says it has striven to comply with individuals' and governments' requests to take down or blur photos with easily identifiable faces or sensitive information.

It had been known that Google and other companies compile databases of home and business wireless computer networks

for use in mobile phone location applications – the protocol is at times faster but less accurate than GPS for gauging a location. But Friday's revelation takes the Street View concerns in a different – and litigiously stickier direction. "Googlemobiles," the kitted-out camera cars the company uses to collect images, had been unintentionally recording some of the *data* transmitted over those wireless networks.

Asked to look into its data-collection practices by Germany's Data Protection Authority, Google says it found that, though at first it thought it hadn't, the company had been collecting private data in its scans of open wireless computer networks. "It's now clear that we have been mistakenly collecting samples of payload data from open (i.e. non-password-protected) WiFi networks, even though we never used that data in any Google products," wrote Alan Eustace, Google Senior Vice President of Engineering & Research.

In other words, Google had been collecting not only the name and location of the open WiFi access points its scanner-equipped cars encountered, but possibly some of the data being transmitted over them, as well. Lists of sites – even passwords – may have been logged. Google has tried to lessen the blow by saying its cars are always on the go, and someone would need to have been using the WiFi network when the car passed by, and its scanners change wireless frequencies five times a second. But European authorities are still miffed.

"Based on the information we have before us, it appears that Google has illegally tapped into private networks in violation of German law," said Ilse Aigner, Germany's minister for food, agriculture, and consumer protection, in a statement. "This is alarming and further evidence that privacy law is a foreign concept to Google."

Google has hired a third-party auditor to analyze the Street View software and to determine what data it gathered. The auditor will also confirm that the data has been appropriately deleted.

That may not be good enough for Germany. As the New York Times reports, "Till Steffen, the justice senator for the city-state of Hamburg, where Google's German headquarters is located, ... introduced a bill in the German Parliament that would fine Google for displaying personal property in Street View without the consent of owners."

More legislative action and penalties could follow. According to the AP, Google gathered 600 gigabytes of data from WiFi networks in more than 30 countries, including the United States.

Related:

- Blog: Greece to Google: Street's closed
- Blog: Google doubles Street View coverage
- Top five online 'Easter eggs'

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Privacy & Security Law Report®

Source: Privacy & Security Law Report: News Archive > 2010 > 05/31/2010 > News > Internet: WiFi Firm Sues Google Over Data Collection; Separate Court Issues Data Destruction TRO

9 PVLR 792

Internet

WiFi Firm Sues Google Over Data Collection; Separate Court Issues Data Destruction TRO

Google Inc. is facing mounting legal challenges after its recent admission that it collected location and content data from unsecured wireless computer networks while taking digital photographs for its Street View mapping project, including putative class complaints by a provider of WiFi access services on behalf of Massachusetts residents and another seeking to represent a class of all affected U.S. residents.

Moreover, in a third class action involving Oregon and Washington residents whose WiFi data was collected, a federal court ignored Google's arguments and granted an injunction prohibiting the internet giant from destroying any of the relevant data it collected.

WiFi Services Provider Lawsuit

A company that provides publicly accessible wireless network services May 25 filed a federal class complaint in Massachusetts on behalf of itself and all state residents whose data was collected by Google from the firm's or the individuals' personal unsecured WiFi connections (*Galaxy Internet Servs. v. Google Inc.*, D. Mass., No. 1:10-cv-10871-WGY, *complaint filed* 5/25/10).

The complaint, which was filed in the U.S. District Court for the District of Massachusetts, alleged that Google violated the federal Wiretap Act, 18 U.S.C. §§ 2511 and the Massachusetts Consumer Protection Act, 201 CMR 17:00-05 by collecting WiFi data without consent during its Street View mapping operations. The complaint also asserted separate state invasion of privacy tort claims—one on behalf of the WiFi firm and another on behalf of a proposed subclass of Massachusetts residents.

Google admitted April 27 that it had been collecting certain WiFi location data with special equipment mounted on its Street View photographic image collection vehicles. Then Google announced May 14 that it had not only collected WiFi site location data but also some content information transmitted over those networks (9 PVLR 770, 5/24/10).

The complaint seeks Wiretap Act statutory damages of $100 per day for each class member up to a maximum of $10,000, and a civil penalty of $5,000 per class member under the state consumer law, plus punitive damages.

Robert H. Carp of Carp Law Offices LLC in Needham, Mass., represented the plaintiffs.

Destruction of Collected WiFi Data?

When Google revealed that it had collected content data through its Street View operations it said that it intended to destroy the data as soon as reasonably possible (9 PVLR 770, 5/24/10).

The Massachusetts plaintiffs asked in their complaint that the court enjoin Google from destroying any of the relevant WiFi data that it had collected.

Meanwhile, in a separate, previously filed Street View WiFi data collection class action, the U.S. District Court for the District of Oregon May 24 issued a temporary restraining order prohibiting Google from destroying any WiFi data on Massachusetts or Oregon residents that it had collected (*Van Valin v. Google Inc.*, D. Or., No. 3:10-cv-00557-ST, *TRO issued* 5/24/10).

In a May 24 court filing objecting to the injunction request, Google argued that the need for such relief was moot, given that the company had turned over all of the collected data to an independent third party data security services firm.

"Google has no intention of violating its document preservation obligations, and has already taken steps beyond what is required," the company said in its filing.

The court granted the TRO over Google's assertion that the putative class of Oregon and Washington residents was "[o]verreacting" to reports that some data collected in foreign countries had already been deleted at the request of data protection authorities.

None of the counsel representing the parties responded to BNA's request for comment on the court's TRO ruling.

The complaint in *Van Valin* was filed May 17 (9 PVLR 771, 5/24/10)—just three days after Google's announcement that it had collected WiFi transmission content data—in apparently the first of what is likely to be many class actions filed against Google.

Putative Nationwide Class Action Complaint

Another class action complaint, which was filed May 20 in the U.S. District Court for the Northern District of California, seeks to represent a putative class of all U.S. residents whose WiFi data was collected by Google (*Berlage v. Google Inc.*, N.D. Cal., No. 10-cv-02187, *complaint filed* 5/20/10).

That class complaint asserts a claim under the federal Wiretap Act regarding Google's alleged unlawful interception of communications and a Stored Communications Act claim regarding its retention of the collected data. The plaintiffs asked the court to award statutory damages of up to $10,000 per violation and punitive damages.

The *Berlage* complaint was filed by Peter J. Bezek, Robert Curtis, Justin P. Karczag of Foley Bezek Behle & Curtis LLP in Santa Barbara, Calif., and Christian A. Jenkins of Minnillo & Jenkins LPA in Cincinnati, Ohio.

Meanwhile, the Federal Trade Commission is under pressure from members of Congress (9 PVLR 773, 5/24/10) and consumer advocates (9 PVLR 773, 5/24/10) to open a privacy protection investigation of Google's Street View collection of WiFi data.

In addition, the Electronic Privacy Information Center has asked the Federal Communications Commission to open an investigation of the matter (*see related report in this issue*).

Data protection authorities in several of the 33 countries other than the United States where Google is engaged in Street View operations have already opened privacy investigations into Google's WiFi collection.

By Donald G. Aplin

Full text of the "Galaxy" complaint is available at http://op.bna.com/pl.nsf/r?Open=dapn-85tgge.

Full text of the "Van Valin" TRO is available at http://op.bna.com/pl.nsf/r?Open=dapn-85ts29.

Full text of the "Berlarge" complaint is available at http://op.bna.com/pl.nsf/r?Open=dapn-85trht.

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Corrigan, Sarah E.

From: Golden, William P.
Sent: Monday, October 25, 2010 10:49 AM
To: Harrison, Lisa M.
Subject: RE: Google wi-fi - heads up for Monday

(b)(5)

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 10:17 AM
To: Golden, William P.
Subject: FW: Google wi-fi - heads up for Monday

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Golden, William P.
To: Harrison, Lisa M.
Sent: Monday, October 25, 2010 10:47 AM
Subject: Read: FW: Google wi-fi - heads up for Monday

Your message was read on Monday, October 25, 2010 10:46:41 AM (GMT-05:00) Eastern Time (US & Canada).

Corrigan, Sarah E.

From: Microsoft Exchange
To: Dawson, Rachel Miller
Sent: Monday, October 25, 2010 10:59 AM
Subject: Delivered: FW: Google wi-fi - heads up for Monday

Your message has been delivered to the following recipients:

Dawson, Rachel Miller

Subject: FW: Google wi-fi - heads up for Monday

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Microsoft Exchange
To: Dawson, Rachel Miller
Sent: Monday, October 25, 2010 10:35 AM
Subject: Delivered: FW: Google wi-fi - heads up for Monday

Your message has been delivered to the following recipients:

Dawson, Rachel Miller

Subject: FW: Google wi-fi - heads up for Monday

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Microsoft Exchange
To: Golden, William P.
Sent: Monday, October 25, 2010 10:17 AM
Subject: Delivered: FW: Google wi-fi - heads up for Monday

Your message has been delivered to the following recipients:

Golden, William P.

Subject: FW: Google wi-fi - heads up for Monday

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Microsoft Exchange
To: Mithal, Maneesha
Sent: Monday, October 25, 2010 4:56 PM
Subject: Delivered: RE: Google wi-fi

Your message has been delivered to the following recipients:

Mithal, Maneesha

Subject: RE: Google wi-fi

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, June 07, 2010 1:27 PM
To: Vandecar, Kim
Subject: Accepted: Google wifi non-public

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Thursday, June 10, 2010 8:35 AM
To: Vandecar, Kim
Cc: Rosen, David
Subject: Accepted: Updated: Google wifi non-public

message says car will leave at 12:35, but that's been changed to 1pm, right?

Corrigan, Sarah E.

From: Microsoft Exchange
To: Sannappa, Nithan; Dawson, Rachel Miller
Sent: Monday, October 25, 2010 4:47 PM
Subject: Delivered: FW: Google wi-fi

Your message has been delivered to the following recipients:

Sannappa, Nithan

Dawson, Rachel Miller

Subject: FW: Google wi-fi

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Microsoft Exchange
To: Rich, Jessica L.; Mithal, Maneesha; Sannappa, Nithan; Dawson, Rachel Miller
Sent: Monday, October 25, 2010 11:13 AM
Subject: Delivered: FW: Google wi-fi - heads up for Monday

Your message has been delivered to the following recipients:

Rich, Jessica L.

Mithal, Maneesha

Sannappa, Nithan

Dawson, Rachel Miller

Subject: FW: Google wi-fi - heads up for Monday

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Microsoft Exchange
To: Dawson, Rachel Miller
Sent: Monday, October 25, 2010 11:03 AM
Subject: Delivered: FW: Google wi-fi - heads up for Monday

Your message has been delivered to the following recipients:

Dawson, Rachel Miller

Subject: FW: Google wi-fi - heads up for Monday

Sent by Microsoft Exchange Server 2007

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Wednesday, May 26, 2010 3:25 PM
To: Sannappa, Nithan
Subject: FW: Google Wi-Fi news

From: Rosen, David
Sent: Wednesday, May 26, 2010 3:21 PM
To: Prewett, Cecelia; Mithal, Maneesha; Harrison, Lisa M.; Dawson, Rachel Miller
Cc: Vandecar, Kim; Kaufman, Daniel
Subject: Google Wi-Fi news

CongressDaily Print Friendly

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TECHNOLOGY

Panel Leaders Want Answers From Google

Wednesday, May 26, 2010
by Juliana Gruenwald

The leaders of the House Energy and Commerce Committee are increasing pressure on Google to provide more information about data it says it mistakenly collected from private Wi-Fi networks.

In a letter today to Google CEO Eric Schmidt, Energy and Commerce Chairman **Henry Waxman**, ranking member **Joe Barton** and Rep. **Edward Markey**, D-Mass., a senior member of the panel, voiced concern about the incident and about Google's attempts to explain it.

Earlier this month, Google revealed that vehicles that snap photos for its Street View feature also scanned for wireless networks. In collecting the name and numerical address of such networks, this scanning software also "mistakenly" collected some personal information from unsecured home or business Wi-Fi networks, Google said.

"We are concerned that Google did not disclose until long after the fact that consumers' Internet use was being recorded, analyzed and perhaps profiled," the lawmakers wrote in the letter. "In addition, we are concerned about the completeness and accuracy of Google's public explanations about this matter."

They submitted a long list of questions for Schmidt and asked for a response by June 7. The questions included: What communities did Street View vehicles target for data collection from Wi-Fi networks? Were citizens in the affected communities notified about the data collection and offered a chance to consent to the practice? What is Google doing to ensure a similar

incident doesn't happen again with new products and services?

Barton and Markey wrote FTC Chairman Jon Leibowitz last week seeking answers to similar questions, as well as whether Google's actions might have broken any laws. Leibowitz told a Senate Appropriations panel last week that the FTC is taking a "very, very close look" at the Google Wi-Fi collection incident.

Google acknowledged that the data collection was a mistake, that it was going to delete the data, has stopped Street View cars from collecting Wi-Fi data, has called for a third-party review of the software at issue, and pledged to cooperate with all the relevant agencies on the matter.

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David J. Rosen
Office of Congressional Relations
U.S. Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580
(202) 326-3732

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 4:56 PM
To: Mithal, Maneesha
Subject: RE: Google wi-fi

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, May 24, 2010 12:34 PM
To: Sannappa, Nithan
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Can you work with DPIP and Kim on this? Thanks.

From: Dawson, Rachel Miller
Sent: Monday, May 24, 2010 12:32 PM
To: Harrison, Lisa M.
Subject: Re: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Great. Would you have nithan coordinate with maneesha or whoever to see if they want anything from us?

Will there be submitted material that requires notice?

Thx

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Tuesday, May 25, 2010 12:01 PM
To: Dawson, Rachel Miller
Subject: RE: draft Commission memo and Chairman response to Markey briefing request

Just wifi. (b)(5) [redacted]

From: Dawson, Rachel Miller
Sent: Tuesday, May 25, 2010 11:56 AM
To: Harrison, Lisa M.
Subject: Re: draft Commission memo and Chairman response to Markey briefing request

Btw what was the answer on breadth - just wifi? Thx

From: Harrison, Lisa M.
To: Dawson, Rachel Miller; Goins, Suzie S.
Sent: Tue May 25 11:52:26 2010
Subject: FW: draft Commission memo and Chairman response to Markey briefing request

Do you know the answer?

From: Sannappa, Nithan
Sent: Tuesday, May 25, 2010 11:43 AM
To: Harrison, Lisa M.
Subject: RE: draft Commission memo and Chairman response to Markey briefing request

FYI, left a message for Katie Ratte (b)(5) [redacted] Other than that, the only other changes are the ones we asked them to make – (b)(5) [redacted] (b)(5) [redacted] One question: there are now two letters, but each letter cc's the other Rep, so Markey and Barton will each get two letters – is that appropriate, or should the cc be taken out altogether?

From: Harrison, Lisa M.
Sent: Tuesday, May 25, 2010 11:12 AM
To: Sannappa, Nithan
Subject: RE: draft Commission memo and Chairman response to Markey briefing request

Nithan,

Can you take a look at this and let me know if there are any changes? Thanks.

From: Dawson, Rachel Miller
Sent: Tuesday, May 25, 2010 10:53 AM
To: Harrison, Lisa M.; Sannappa, Nithan
Subject: Fw: draft Commission memo and Chairman response to Markey briefing request

---

From: Kaufman, Daniel
To: Dawson, Rachel Miller; Vandecar, Kim
Sent: Tue May 25 10:24:40 2010
Subject: Fw: draft Commission memo and Chairman response to Markey briefing request

For your review.

From: Ratte, Kathryn D.
To: Kaufman, Daniel
Cc: Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Sent: Tue May 25 10:23:15 2010
Subject: draft Commission memo and Chairman response to Markey briefing request

Hi Daniel,

Attached is a draft Commission memo and response from the Chairman to a request from Reps. Barton and Markey for a nonpublic briefing on the Google Wi-Fi data collection / Street View issue. I also attach a copy of the original request. Let me know if you have edits or questions. Thanks! Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Wednesday, June 09, 2010 12:52 PM
To: Dawson, Rachel Miller; Sannappa, Nithan
Subject: RE: Google Wi-Fi briefing Friday

How does this sound for an answer to DPIP. Rachel, are you ok with this?

(b)(5)

From: Dawson, Rachel Miller
Sent: Wednesday, June 09, 2010 12:13 PM
To: Sannappa, Nithan; Harrison, Lisa M.
Subject: RE: Google Wi-Fi briefing Friday

(b)(5)

From: Sannappa, Nithan
Sent: Wednesday, June 09, 2010 11:46 AM
To: Dawson, Rachel Miller; Harrison, Lisa M.
Subject: FW: Google Wi-Fi briefing Friday

(b)(5)

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Wednesday, June 09, 2010 12:56 PM
To: Sannappa, Nithan
Subject: RE: Google Wi-Fi briefing Friday

Absolutely, thanks.

-----Original Message-----
From: Sannappa, Nithan
Sent: Wednesday, June 09, 2010 12:56 PM
To: Harrison, Lisa M.
Subject: RE: Google Wi-Fi briefing Friday

Ok, just wanted to make sure someone was going to be there. Let me know if you need me to fill in.

-----Original Message-----
From: Harrison, Lisa M.
Sent: Wednesday, June 09, 2010 12:55 PM
To: Sannappa, Nithan
Subject: RE: Google Wi-Fi briefing Friday

Kim called and there is only space for one person from OGC. I'm planning to attend, but if I end up with a conflict at the last minute would be happy for you to attend instead. It's at 1pm Friday.

-----Original Message-----
From: Sannappa, Nithan
Sent: Wednesday, June 09, 2010 10:59 AM
To: Harrison, Lisa M.
Subject: FW: Google Wi-Fi briefing Friday

FYI. The letter looks fine to me. I don't think it matters whether Maneesha or Katie is listed as the contact. Is someone from OGC planning on attending? I can go, but haven't been on any of the schedulers...

-----Original Message-----

Duplicate

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Wednesday, June 09, 2010 12:59 PM
To: Dawson, Rachel Miller
Cc: Sannappa, Nithan
Subject: RE: Google Wi-Fi briefing Friday

Katie asked about that so I think it's fine if we recommend letter come from Maneesha.

-----Original Message-----
From: Dawson, Rachel Miller
Sent: Wednesday, June 09, 2010 12:58 PM
To: Harrison, Lisa M.
Cc: Sannappa, Nithan
Subject: RE: Google Wi-Fi briefing Friday

Me too, though I think the names generally are opposite (letter from maneesha, contact staff). But it's their choice. Nithan would you respond? thx

-----Original Message-----
From: Harrison, Lisa M.
Sent: Wednesday, June 09, 2010 12:56 PM
To: Dawson, Rachel Miller
Cc: Sannappa, Nithan
Subject: RE: Google Wi-Fi briefing Friday

Letter looks fine to me.

-----Original Message-----
From: Dawson, Rachel Miller
Sent: Wednesday, June 09, 2010 12:54 PM
To: Harrison, Lisa M.
Subject: FW: Google Wi-Fi briefing Friday

Duplicate

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Tuesday, May 25, 2010 9:50 AM
To: Goins, Suzie S.; Watts, Marianne R.
Cc: Dawson, Rachel Miller; Sannappa, Nithan
Subject: RE: HOT LETTER FROM REPS. MARKEY AND BARTON ASSIGNED TO BCP, OFFICE OF THE DIRECTOR (DANIEL KAUFMAN)

I tried to send a message earlier but I don't think it went through. DPIP has already put the papers together and Nithan reviewed the package. It hasn't come around yet for GC signature. Nithan and/or I will go to the briefing.

From: Goins, Suzie S.
Sent: Tuesday, May 25, 2010 9:35 AM
To: Watts, Marianne R.
Cc: Harrison, Lisa M.; Dawson, Rachel Miller
Subject: RE: HOT LETTER FROM REPS. MARKEY AND BARTON ASSIGNED TO BCP, OFFICE OF THE DIRECTOR (DANIEL KAUFMAN)

Do you know who my contact would be in the Bureau?

~~~~~~~~~~~~~~~~~~~~~~~~~~

Suzie Goins
Office of the General Counsel
Federal Trade Commission
202.326.2490
sgoins@ftc.gov

From: Watts, Marianne R.
Sent: Tuesday, May 25, 2010 8:25 AM
To: Goins, Suzie S.
Cc: Harrison, Lisa M.; Dawson, Rachel Miller
Subject: RE: HOT LETTER FROM REPS. MARKEY AND BARTON ASSIGNED TO BCP, OFFICE OF THE DIRECTOR (DANIEL KAUFMAN)

Suzie,

Do you have the time to start putting together the papers for this? It's a nonpublic briefing request on any investigation that we might have of Google and its mapping project. It has nothing to do with our recently concluded merger investigation. This one is all on privacy (Lisa: you may want to consider whether you want to go to this one or not). Let me know. Thanks.

-- Marianne

From: Goins, Suzie S.
Sent: Tuesday, May 25, 2010 7:36 AM
To: Edwards, DeAnna; Harrison, Lisa M.; Watts, Marianne R.; Sannappa, Nithan
Cc: Dawson, Rachel Miller
Subject: FW: HOT LETTER FROM REPS. MARKEY AND BARTON ASSIGNED TO BCP, OFFICE OF THE DIRECTOR (DANIEL KAUFMAN)
Importance: High
~~~~~~~~~~~~~~~~~~~~~~~~~~

From: Taylor, Susan
Sent: Monday, May 24, 2010 2:36 PM
To: Agarwal, Binoy; Anderson, Emily L.; Bak, Patricia; Bumpus, Jeanne; Clark, Donald S.; Cook, Barbara A.; Comish, Alexis (Contractor); Dawson, Rachel Miller; Delaney, Elizabeth; Feuer, Stacy; Goins, Suzie S.; Hann, Carolyn Lee; Harris, Larverne; Kaufman, Daniel; Kestenbaum, Janis; Kim, Laura; Kingsland, Gail M.H.; Kraus, Elizabeth; Mungo, Corinne; Norris, Catherine; Pyos, Monica M.; Rosen, David; Runco, Philip; Schneider, Charles; Simons, Claudia A.; Smith, Virginia; Tabor, April; Vandecar, Kim; Winerman, Marc; Young, June
Subject: HOT LETTER FROM REPS. MARKEY AND BARTON ASSIGNED TO BCP, OFFICE OF THE DIRECTOR (DANIEL KAUFMAN)
Importance: High

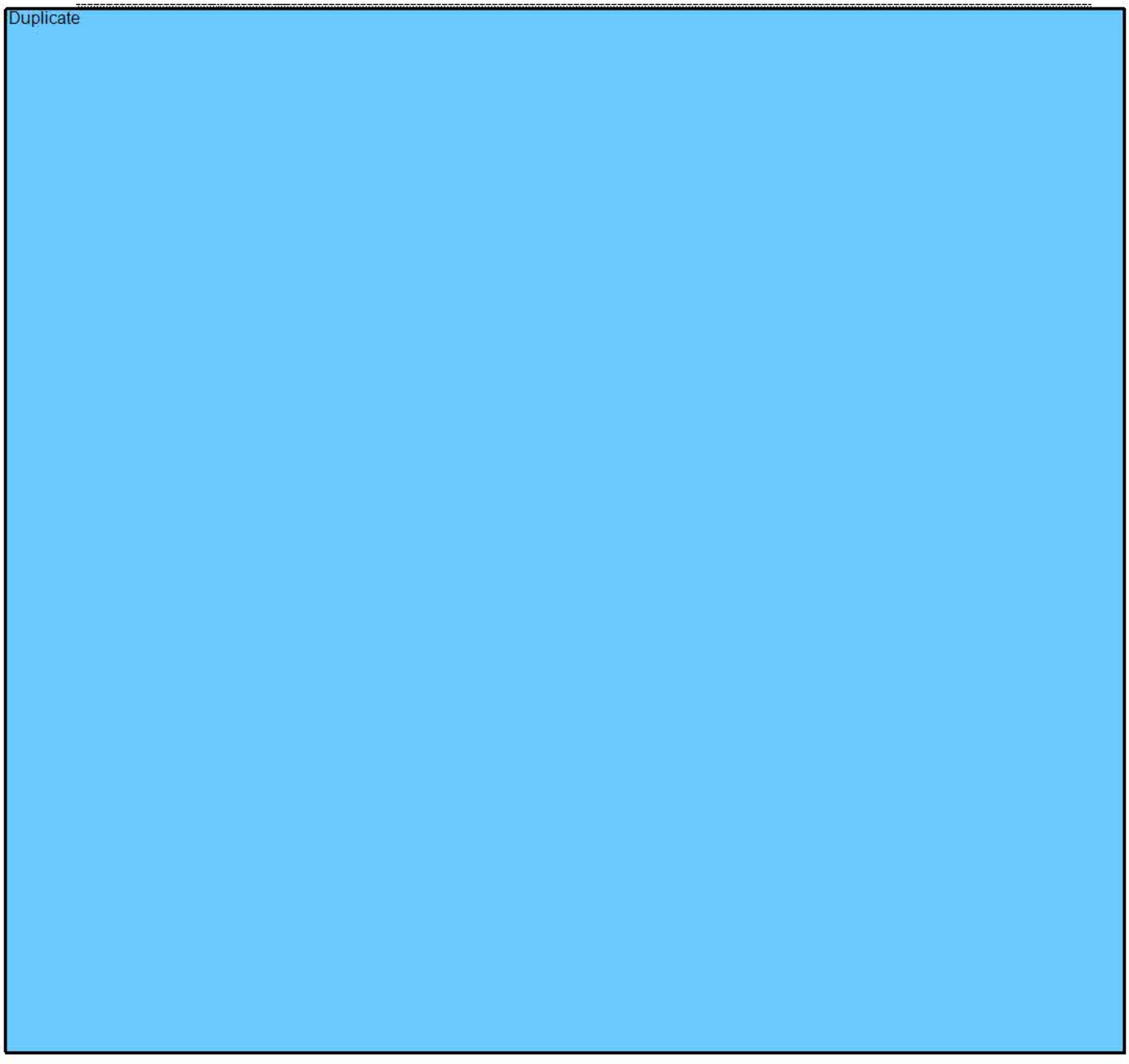
Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, May 24, 2010 12:35 PM
To: Vandecar, Kim
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Seems like it worked out ok.

From: Vandecar, Kim
Sent: Monday, May 24, 2010 12:31 PM
To: Harrison, Lisa M.
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Note that I left this issue for OGC? Handled well.



Corrigan, Sarah E.

From: Mithal, Maneesha
To: Harrison, Lisa M.
Sent: Monday, October 25, 2010 4:56 PM
Subject: Read: RE: Google wi-fi

Your message was read on Monday, October 25, 2010 4:56:18 PM (GMT-05:00) Eastern Time (US & Canada).

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Tuesday, May 18, 2010 6:48 AM
To: Dawson, Rachel Miller
Subject: Re: URGENT: Google Deleting Data

I suggest we send to nithan too.

From: Dawson, Rachel Miller
To: Harrison, Lisa M.
Sent: Tue May 18 00:00:55 2010
Subject: Fw: URGENT: Google Deleting Data

You're the first other-ogc recipient. Seems to me I got a cq or cong daily bulletin about google deleting docs - don't know anything yet.

Duplicate

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Tuesday, May 18, 2010 6:45 AM
To: Dawson, Rachel Miller
Subject: Re: URGENT: Google Deleting Data

Maybe we should send to shonka too?

Duplicate

Corrigan, Sarah E.

From: Sannappa, Nithan
To: Harrison, Lisa M.
Sent: Monday, October 25, 2010 5:06 PM
Subject: Read: FW: Google wi-fi

Your message was read on Monday, October 25, 2010 5:06:05 PM (GMT-05:00) Eastern Time (US & Canada).

Corrigan, Sarah E.

From: Sannappa, Nithan
To: Harrison, Lisa M.
Sent: Monday, October 25, 2010 11:14 AM
Subject: Read: FW: Google wi-fi - heads up for Monday

Your message was read on Monday, October 25, 2010 11:14:14 AM (GMT-05:00) Eastern Time (US & Canada).

Corrigan, Sarah E.

From: Mithal, Maneesha
To: Harrison, Lisa M.
Sent: Monday, October 25, 2010 11:15 AM
Subject: Read: FW: Google wi-fi - heads up for Monday

Your message was read on Monday, October 25, 2010 11:14:49 AM (GMT-05:00) Eastern Time (US & Canada).

Mithal, Maneesha

From: JDL
Sent: Wednesday, October 27, 2010 4:58 PM
To: Rich, Jessica L.; Prewett, Cecelia; Mithal, Maneesha
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: Google Street View

I think, Mark, you can tell John that we have other, similar investigations in the pipeline & that we should have called him as soon as we released the letter. I don't think at this point, though, he's ready to take the long view. (Honestly, I'm a little offended by some of what he wrote but I wouldn't make a big deal of it.)
Best,
Jon

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 4:44 PM
To: Prewett, Cecelia; JDL; Mithal, Maneesha
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.; Eichorn, Mark
Subject: RE: Google Street View

Adding Mark, who was going to call him today.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Prewett, Cecelia
Sent: Wednesday, October 27, 2010 4:42 PM
To: Rich, Jessica L.; JDL; Mithal, Maneesha
Cc: Vladeck, David; Lupovitz, Joni; Matties, Deborah J.; DeLorme, Christine L.; Farrell, Claudia B.; Ratte, Kathryn D.
Subject: RE: Google Street View

Heads up, here's his press release:

http://insidegoogle.com/2010/10/ftc-wrong-to-end-google-probe-americans-entitled-to-full-account-of-abuses/

FTC Wrong To End Google Probe — Americans Entitled To Full Account Of Abuses

CONTACT: John M. Simpson , 310-392-7041; or cell: 310-292-1902

Wed, Oct 27, 2010 at 11:54 am

SANTA MONICA, CA — The Federal Trade Commission's two-page letter ending its probe of the Google Wi-Spy scandal is premature and wrong, Consumer Watchdog said today, and leaves the American public with no official full account of the Internet giant's repeated invasions of consumer privacy.

The FTC's failure to act makes it even more important for Congress to hold hearings on Google's Wi-Spying, in which the company's Street View cars gathered communications from private Wi-Fi networks in 30 countries around the word.

"Once again, Google, with its myriad of government connections, gets a free pass," said John M.

Simpson, director of the nonprofit, nonpartisan group's Inside Google Project. "At a minimum the public deserved a full report about Google's abuses from the FTC's Bureau of Consumer Protection. Instead, the company announced a few steps that are little more than window dressing and the FTC caves in with a woefully inadequate two-page letter."

Consumer Watchdog asked the FTC to investigate Google's Wi-Spying last May.

Consumer Watchdog noted that privacy officials in the United Kingdom have re-opened an investigation of Google's Wi-Spying and the company could face fines there. In the U.S. more than 35 state attorneys general are cooperating in a multi-state probe. A class action suit against Google has been consolidated in the Federal District For Northern California.

"It appears likely that the only way the American public will get to the bottom of the extent of Google's Wi-Spying activities is through civil litigation or the state attorneys general investigation," said Simpson.

Consumer Watchdog called on the states attorneys general to investigate in June.

Google's announced tweaks to its internal privacy procedures last week after the Canadian Privacy Commissioner Jennifer Stoddart said her investigation found that Google's Wi-Spying broke the law.

"The Canadians investigated and demonstrated that Google intercepted mails, URLs, passwords and other sensitive data. They documented the extent of Google's abuse of Canada's citizens," said Simpson. "I'd expect no less from our FTC; there is absolutely no excuse for shutting down their probe."

Consumer Watchdog has been working to protect consumers' online privacy rights and educate them about the issues through its Inside Google Project. The goal has been to convince Google of the social and economic importance of giving consumers control over their online lives. By persuading Google, the Internet's leading company, to adopt adequate guarantees, its policies could become the gold standard for privacy for the industry, potentially improving the performance of the entire online sector.

- 30 -

***Consumer Watchdog**, formerly the Foundation for Taxpayer and Consumer Rights is a nonprofit, nonpartisan consumer advocacy organization with offices in Washington, DC and Santa Monica, CA. Consumer Watchdog's website is www.consumerwatchdog.org. Visit our new Google Privacy and Accountability Project website: http://insidegoogle.com*

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
desk 202.326.3220 cell 202.758.7598
Web | Facebook | YouTube

Duplicate

Mithal, Maneesha

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 4:46 PM
To: Farrell, Claudia B.; Mithal, Maneesha
Subject: RE: Post Tech - FTC drops inquiry into Google Street View flap

This is not too bad.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

-----Original Message-----
From: Farrell, Claudia B.
Sent: Wednesday, October 27, 2010 4:13 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: Post Tech - FTC drops inquiry into Google Street View flap

http://voices.washingtonpost.com/posttech/2010/10/the_federal_trade_commission_o.html

This is being bannered at washgintonpost.com

Mithal, Maneesha

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 10:40 PM
To: Mithal, Maneesha
Subject: Re: Please use this version instead

Thanks.

-- Debbie

----- Original Message -----
From: Mithal, Maneesha
To: Matties, Deborah J.; Vandecar, Kim
Sent: Tue Oct 26 22:36:48 2010
Subject: Re: Please use this version instead

Yes - it's taken care of.

----- Original Message -----
From: Matties, Deborah J.
To: Vandecar, Kim; Mithal, Maneesha
Sent: Tue Oct 26 22:23:31 2010
Subject: Re: Please use this version instead

Thanks. Maneesha - did you get my vm yesterday about making sure Google staff in Jerusalem are given sufficient notice?

Kim - does 9am give you enough time to tell everyone on the Hill?

-- Debbie

----- Original Message -----
From: Vandecar, Kim
To: Matties, Deborah J.; Mithal, Maneesha
Sent: Tue Oct 26 21:37:52 2010
Subject: Re: Please use this version instead

Claudia said 9:00 am.

----- Original Message -----
From: Matties, Deborah J.
To: Vandecar, Kim; Mithal, Maneesha
Sent: Tue Oct 26 21:32:39 2010
Subject: Re: Please use this version instead

Did you ever hear? Last I heard the time was still undecided.

-- Debbie

----- Original Message -----
From: Vandecar, Kim
To: Mithal, Maneesha; Matties, Deborah J.
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Rich, Jessica L.; Prewett, Cecelia; Farrell, Claudia B.; Weinman, Yael; Vladeck, David; Eichorn, Mark
Sent: Tue Oct 26 17:30:55 2010
Subject: RE: Please use this version instead

When is this getting posted tomorrow?

-----Original Message-----
From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 4:03 PM
To: Matties, Deborah J.

Cc: Ratte, Kathryn D.; Brin, Katherine Race; Rich, Jessica L.; Prewett, Cecelia; Farrell, Claudia B.; Vandecar, Kim; Weinman, Yael; Vladeck, David; Eichorn, Mark
Subject: Please use this version instead

-----Original Message-----
From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 3:47 PM
To: Mithal, Maneesha
Subject: RE: Emailing: wi fi letter 10.26.10

Can you please send a compare so I can provide a copy to the other attorney advisors?

-----Original Message-----
From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 3:45 PM
To: Ratte, Kathryn D.; Rich, Jessica L.; Brin, Katherine Race; Prewett, Cecelia; Farrell, Claudia B.; Vandecar, Kim; Matties, Deborah J.; Weinman, Yael; Vladeck, David; Eichorn, Mark
Subject: Emailing: wi fi letter 10.26.10

Here's the final version to be made public tomorrow morning.

The message is ready to be sent with the following file or link attachments:

wi fi letter 10.26.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 5:46 PM
To: Rich, Jessica L.; Mithal, Maneesha; Vladeck, David
Subject: RE: Emailing: wi fi letter 10.26.10

I will be sure to mention that to him when I send the letter (which I will do immediately when I get confirmation that it's final with no further changes from the commissioners' offices). Thanks!

-----Original Message-----
From: Rich, Jessica L.
Sent: Tuesday, October 26, 2010 5:40 PM
To: Mithal, Maneesha; Vladeck, David
Cc: Ratte, Kathryn D.
Subject: RE: Emailing: wi fi letter 10.26.10

And I understand that Maneesha and Katie are making sure that he alerts the Google folks in Jerusalem.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

-----Original Message-----
From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 5:16 PM
To: Vladeck, David; Rich, Jessica L.
Cc: Ratte, Kathryn D.
Subject: Re: Emailing: wi fi letter 10.26.10

Al Gidari, their outside counsel. We're sending him the letter tonight.

----- Original Message -----
From: Vladeck, David
To: Mithal, Maneesha; Rich, Jessica L.
Sent: Tue Oct 26 17:12:47 2010
Subject: Re: Emailing: wi fi letter 10.26.10

Who at google have you been talking to?

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 5:08 PM
To: Matties, Deborah J.; Young, Kial
Cc: Farrell, Claudia B.
Subject: Re: Google WiFi letter

Adding Claudia

----- Original Message -----
From: Matties, Deborah J.
To: Young, Kial; Mithal, Maneesha
Sent: Tue Oct 26 17:04:39 2010
Subject: RE: Google WiFi letter

Don't have a specific time. Maneesha?

-----Original Message-----
From: Young, Kial
Sent: Tuesday, October 26, 2010 5:03 PM
To: Matties, Deborah J.
Subject: RE: Google WiFi letter

Thanks. Would you let me know when it's public? Or do you already know when it'll be released?

-----Original Message-----
From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 4:31 PM
To: Kestenbaum, Janis; Delaney, Elizabeth; Young, Kial; McKewen, Richard; Krainsky, Ella; Winerman, Marc; Cooper, James; Hollman, Hugh
Cc: Mithal, Maneesha; Lupovitz, Joni; DeLorme, Christine L.
Subject: Google WiFi letter

Fyi, here is the final version to be made public tomorrow morning. Thanks to everyone who provided helpful suggestions.

Mithal, Maneesha

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 4:31 PM
To: Kestenbaum, Janis; Delaney, Elizabeth; Young, Kial; McKewen, Richard; Krainsky, Ella; Winerman, Marc; Cooper, James; Hollman, Hugh
Cc: Mithal, Maneesha; Lupovitz, Joni; DeLorme, Christine L.
Subject: Google WiFi letter

Attachments: wi fi letter 10.26.10.wpd; redline..wpd

wi fi letter 10.26.10.wpd (178..

redline..wpd (181 KB)

Fyi, here is the final version to be made public tomorrow morning. Thanks to everyone who provided helpful suggestions.

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 4:16 PM
To: Vladeck, David; Weinman, Yael; Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: RE: Emailing: wi fi letter 10.26.10

Jane is likely aware of the general timing and our plan to issue a public letter, but she hasn't seen the letter yet.

I believe OPA wants to post this in the morning.

-----Original Message-----
From: Vladeck, David
Sent: Tuesday, October 26, 2010 4:15 PM
To: Ratte, Kathryn D.; Weinman, Yael; Mithal, Maneesha
Cc: Brin, Katherine Race
Subject: Re: Emailing: wi fi letter 10.26.10

But as far as you know Jane hasn't been told yet. Are we going to post it?

----- Original Message -----
From: Ratte, Kathryn D.
To: Weinman, Yael; Mithal, Maneesha
Cc: Brin, Katherine Race; Vladeck, David
Sent: Tue Oct 26 16:11:43 2010
Subject: RE: Emailing: wi fi letter 10.26.10

That's fine - if the attorney advisers sign off tonight, Jane may hear from her outside counsel before tomorrow. Either way is fine with us, though. She'll get a heads up before the announcement one way or another.

-----Original Message-----
From: Weinman, Yael
Sent: Tuesday, October 26, 2010 4:10 PM
To: Mithal, Maneesha
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Vladeck, David
Subject: Re: Emailing: wi fi letter 10.26.10

Katies? David was planning on chatting with Jane tomorrow. Does that work?

----- Original Message -----
From: Mithal, Maneesha
To: Weinman, Yael
Cc: Ratte, Kathryn D.; Brin, Katherine Race
Sent: Tue Oct 26 16:07:33 2010
Subject: RE: Emailing: wi fi letter 10.26.10

Why don't you and the Katies coordinate? I think we were planning to send Google's outside counsel the letter late tonight.

-----Original Message-----
From: Weinman, Yael
Sent: Tuesday, October 26, 2010 3:55 PM
To: Mithal, Maneesha
Subject: Re: Emailing: wi fi letter 10.26.10

Are we telling the Google folks about it here?

----- Original Message -----
From: Mithal, Maneesha
To: Ratte, Kathryn D.; Rich, Jessica L.; Brin, Katherine Race; Prewett, Cecelia; Farrell, Claudia B.; Vandecar, Kim; Matties, Deborah J.; Weinman, Yael; Vladeck, David; Eichorn,

Mark
Sent: Tue Oct 26 15:44:42 2010
Subject: Emailing: wi fi letter 10.26.10

Here's the final version to be made public tomorrow morning.

The message is ready to be sent with the following file or link attachments:

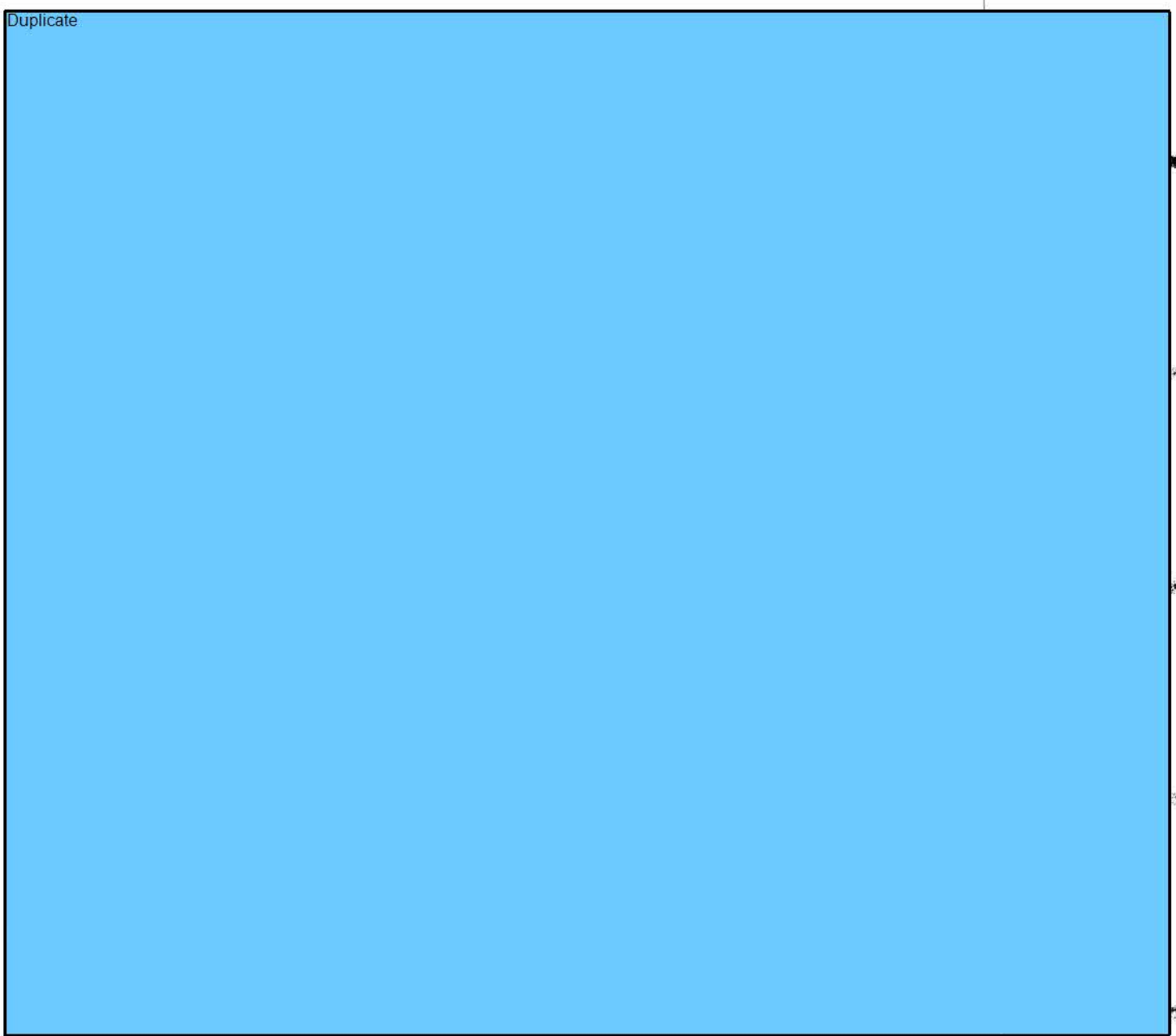
wi fi letter 10.26.10

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 4:10 PM
To: Mithal, Maneesha; Weinman, Yael
Cc: Brin, Katherine Race
Subject: RE: Emailing: wi fi letter 10.26.10

Once we get a final letter, Katie and I will email an advance copy to their outside counsel (the recipient of the letter). Hopefully that will be tonight, because he's on the west coast. Yael, I can cc you on what goes out just so you have the latest and greatest. Their lawyer will update Google, though - I don't think you have to worry about it too much.



Mithal, Maneesha

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 1:32 PM
To: Wood, Nathaniel C.; Mithal, Maneesha; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

Thanks, Nat! I've forwarded this to Cecelia and Claudia Farrell, to see if they can put something together to highlight these materials. Go Yul! He's so fabulous!

From: Wood, Nathaniel C.
Sent: Tuesday, October 26, 2010 1:19 PM
To: Matties, Deborah J.; Mithal, Maneesha; Shanoff, Carolyn
Subject: RE: Wireless Router Security Education with Google WiFi letter?

We also just released a video on wireless security, featuring Yul Kwon of the FCC:
http://www.onguardonline.gov/videos/wireless-secuirty-yul-kwon.aspx

We recently reviewed the article on at OnGuardOnline.gov/wireless, and it's up-to-date except that we have to mention WPA2. Those changes will be live this afternoon.

Nat Wood
Assistant Director, Consumer & Business Education
Bureau of Consumer Protection
Federal Trade Commission

ncwood@ftc.gov
(202) 326-3407

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 12:52 PM
To: Mithal, Maneesha; Shanoff, Carolyn; Wood, Nathaniel C.
Subject: Wireless Router Security Education with Google WiFi letter?

Hi Maneesha and Carolyn - I wasn't able to reach either of you so left messages, and just received an out-of-office from Carolyn so am including Nat as well. We're wondering if with the announcement of the Google WiFi letter we should do some consumer education for wireless routers.

OnGuardOnLine has pretty good information, from May 2006. Does it need updating? Any other materials we can offer?

http://www.onguardonline.gov/topics/wireless-security.aspx

Debbie Matties
Attorney Advisor
Office of Chairman Jon Leibowitz
Federal Trade Commission
dmatties@ftc.gov
(202) 326-2047 (office)
(202) 758-7697 (mobile)

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 11:33 AM
To: Mithal, Maneesha; Brin, Katherine Race
Subject: RE: Matties, Deborah J. (2047)

That sounds good - I think we can also assume that Al Gidari will give the heads up to his folks at Google if we can get him an advance copy.

-----Original Message-----
From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 9:24 AM
To: Ratte, Kathryn D.; Brin, Katherine Race
Subject: FW: Matties, Deborah J. (2047)

FYI - I also just forwarded this to Yael.

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 8:57 AM
To: Weinman, Yael
Subject: RE: Matties, Deborah J. (2047)

So far, we've heard from 2 of the Commissioners' offices. We may be ready to make public by the end of the day our time.

-----Original Message-----
From: Weinman, Yael
Sent: Tuesday, October 26, 2010 8:56 AM
To: Mithal, Maneesha
Subject: Re: Matties, Deborah J. (2047)

Yes I heard it. Both Jane Horvath and Nicole Wong are here (other Google folks too). Let me and David know how you want to proceed.

----- Original Message -----
From: Mithal, Maneesha
To: Weinman, Yael
Sent: Tue Oct 26 08:52:47 2010
Subject: FW: Matties, Deborah J. (2047)

Can you listen to the attached?

Tracking:	**Recipient**	**Delivery**
	Weinman, Yael	Delivered: 10/26/2010 8:57 AM

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Sunday, October 24, 2010 8:09 AM
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: Re: One Q

No - that's the only thing that's not in their blog posts. Their attorney said they'd be willing to make that statement public, but we will confirm that tomorrow.

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Sent: Sun Oct 24 08:06:53 2010
Subject: One Q

Did Google include in its public announcement info about not using the data (ie info that tracks their assurances to us)?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Mithal, Maneesha

From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 9:11 PM
To: Eichorn, Mark; Ratte, Kathryn D.; Mithal, Maneesha
Subject: Re: Google WiFi letter draft

I like the new version too - see later emails. I am less concerned about the nonpublic stuff in light of their recent announcement.

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Saturday, October 23, 2010 9:01 PM
To: Rich, Jessica L.; Ratte, Kathryn D.
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Will do.

----- Original Message -----

Duplicate

Mithal, Maneesha

From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 5:50 PM
To: Ratte, Kathryn D.; Mithal, Maneesha
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

And let's remember to discuss whether they will feel snookered when they see the negative stuff along with it.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Mithal, Maneesha
Sent: Sat Oct 23 17:48:53 2010
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Not to worry.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Mithal, Maneesha

From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 4:02 PM
To: Mithal, Maneesha; Ratte, Kathryn D.
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

She is awesome and I am sorry my tech difficulties gave her some!
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Mithal, Maneesha
To: Ratte, Kathryn D.; Rich, Jessica L.
Sent: Sat Oct 23 16:00:50 2010
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

Wow - Katie's too fast for me.

----- Original Message -----
From: Ratte, Kathryn D.
To: Rich, Jessica L.
Cc: Mithal, Maneesha
Sent: Sat Oct 23 15:59:25 2010
Subject: RE: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

That one was actually from the original letter, but I'll tweak and resend.

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Saturday, October 23, 2010 4:00 PM
To: Rich, Jessica L.; Ratte, Kathryn D.
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

I can do it tonight. I can also make any edits I might have.

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.
Cc: Mithal, Maneesha
Sent: Sat Oct 23 15:45:59 2010
Subject: Re: Emailing: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits

There may be a problem with my blackberry - it keeps showing me the old version. I hate to trouble you, but can you paste it into the text and put the fns at the bottom?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Saturday, October 23, 2010 3:12 PM
To: Ratte, Kathryn D.; Rich, Jessica L.
Cc: Eichorn, Mark
Subject: Re: Google WiFi letter draft

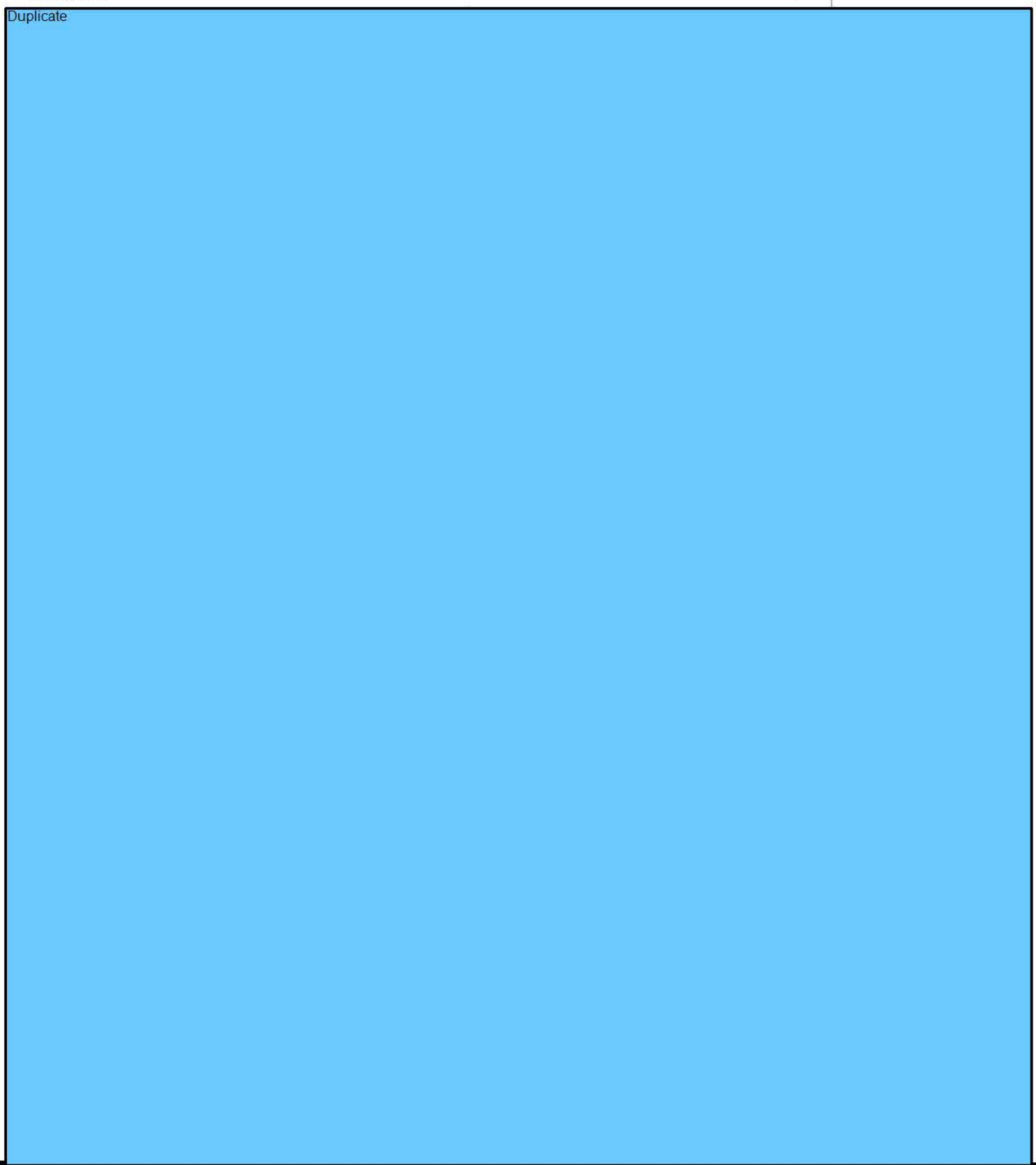
No - and I don't think this one does either. I meant Chairman, OPA, and OGC. Though given the high profile nature of the subject matter, I wouldn't be surprised if the Chairman wanted to give the other offices a heads up.

Duplicate

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Saturday, October 23, 2010 1:47 PM
To: Rich, Jessica L.; Mithal, Maneesha
Subject: RE: Google WiFi letter draft

I'll take a look when I do the next round incorporating a reference to their new process changes.



Mithal, Maneesha

From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 1:27 PM
To: Mithal, Maneesha
Subject: Re: Google WiFi letter draft

They will need the full context, incl what just happened. (I am missing a lot of this myself!)
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Rich, Jessica L.
To: Mithal, Maneesha
Sent: Sat Oct 23 11:56:14 2010
Subject: Re: Google WiFi letter draft

Yes - chair will want actual letter but good idea to provide background now, asap.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Mithal, Maneesha
To: Rich, Jessica L.
Sent: Sat Oct 23 11:55:17 2010
Subject: Re: Google WiFi letter draft

Our emails crossed!

----- Original Message -----
From: Rich, Jessica L.
To: Ratte, Kathryn D.; Vladeck, David; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Cc: Glassman, Mark
Sent: Sat Oct 23 11:54:50 2010
Subject: Re: Google WiFi letter draft

And we'll need to give a heads up to OPA and the Chairman's office. The latter could slow us down but we'll try.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Saturday, October 23, 2010 11:55 AM
To: Rich, Jessica L.
Subject: Re: Google WiFi letter draft

We need to let Chairman and Cecelia know too, asap probably. Should I do it?

Duplicate

Mithal, Maneesha

From: Rich, Jessica L.
Sent: Saturday, October 23, 2010 10:15 AM
To: Mithal, Maneesha
Subject: Fw: Google WiFi letter draft

I just heard news reports. I think the letter is moot but hoping that's not so.

Sorry for all the email.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Friday, October 22, 2010 1:38 PM
To: Rich, Jessica L.; Ratte, Kathryn D.
Subject: RE: Google WiFi letter draft

Sorry Jessica - I asked Katie to send to both of you at the same time.

Duplicate

Mithal, Maneesha

From: Brin, Katherine Race
Sent: Friday, October 22, 2010 8:00 AM
To: Eichorn, Mark; Mithal, Maneesha
Cc: Ratte, Kathryn D.
Subject: RE: Updated WiFi letter

I agree – (b)(5)
(b)(5)

From: Eichorn, Mark
Sent: Thursday, October 21, 2010 6:04 PM
To: Brin, Katherine Race; Mithal, Maneesha
Cc: Ratte, Kathryn D.
Subject: RE: Updated WiFi letter

Thanks. (b)(5)
(b)(5)

From: Brin, Katherine Race
Sent: Thursday, October 21, 2010 5:01 PM
To: Mithal, Maneesha
Cc: Eichorn, Mark; Ratte, Kathryn D.
Subject: Updated WiFi letter

Here is an updated letter with the changes we discussed. (b)(5)
(b)(5)

Here is a link to the Canadian letter: http://priv.gc.ca/media/nr-c/2010/let_101019_e.cfm

I have to run now, but I'll be teleworking all day tomorrow and can discuss this more or make additional edits then.

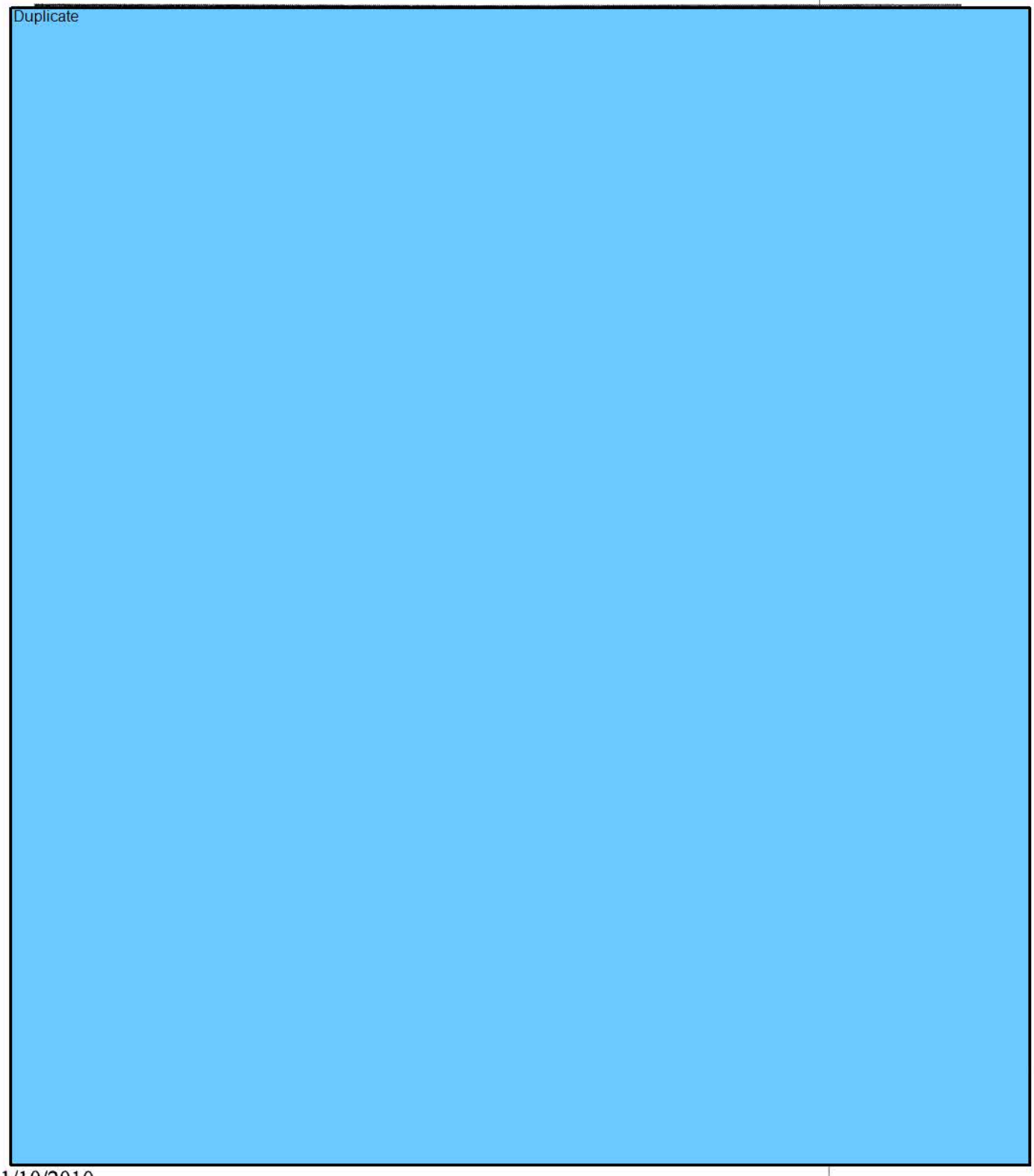
Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122

Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Thursday, October 21, 2010 6:33 PM
To: Eichorn, Mark; Brin, Katherine Race; Mithal, Maneesha
Subject: RE: Updated WiFi letter

Sorry I've been out of commission for a few days, but I plan to come in tomorrow and will take a look first thing. Thanks!



Mithal, Maneesha

From: Mithal, Maneesha
Sent: Thursday, October 21, 2010 3:50 PM
To: Ratte, Kathryn D.
Subject: RE: Where are you? If on leave, we can do it tomorrow

Tracking:

Recipient	Delivery
Ratte, Kathryn D.	Delivered: 10/21/2010 3:50 PM

OK – I hope you feel better, by the way!

From: Ratte, Kathryn D.
Sent: Thursday, October 21, 2010 3:39 PM
To: Mithal, Maneesha
Subject: Re: Where are you? If on leave, we can do it tomorrow

Works for me! I will take a look tomorrow. (b)(5)
(b)(5)

From: Mithal, Maneesha
To: Ratte, Kathryn D.
Sent: Thu Oct 21 15:37:43 2010
Subject: RE: Where are you? If on leave, we can do it tomorrow

I decided to just send around a redline, and we can discuss whenever. We may not even need to discuss because the letter's in such great shape.

From: Ratte, Kathryn D.
Sent: Thursday, October 21, 2010 3:36 PM
To: Mithal, Maneesha
Subject: Re: Where are you? If on leave, we can do it tomorrow

Home sick, but I plan to come in tomorrow. Feel free to discuss with KRB and Mark today if you want to move it along, though.

From: Mithal, Maneesha
To: Ratte, Kathryn D.
Sent: Thu Oct 21 15:35:31 2010
Subject: Where are you? If on leave, we can do it tomorrow

Maneesha Mithal
Associate Director
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Washington, DC 20580
(tel) 202-326-2771
(fax) 202-326-3629

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 05, 2010 9:26 AM
To: Ratte, Kathryn D.
Subject: RE: update on Canada investigation

Tracking:

Recipient	Delivery	Read
Ratte, Kathryn D.	Delivered: 10/5/2010 9:26 AM	Read: 10/5/2010 9:31 AM

(b)(5)

From: Ratte, Kathryn D.
Sent: Monday, October 04, 2010 4:37 PM
To: Eichorn, Mark; Brin, Katherine Race; Mithal, Maneesha; Rich, Jessica L.
Subject: update on Canada investigation

Hi everyone,

To follow up on David's conversation with Jennifer Stoddart, I talked to Dan Caron about the status of Canada's Google Wi-Fi investigation. Sorry for the delay – I intended to call him last week but was unexpectedly out of the office. Everything below is confidential, so please keep it close hold until Canada publicly announces its report.

(b)(5)

Please let me know if you have any questions.
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Mithal, Maneesha

From: Rich, Jessica L.
Sent: Monday, October 04, 2010 3:50 PM
To: Eichorn, Mark; Kaufman, Daniel
Cc: Mithal, Maneesha
Subject: RE: Summary of pending Google matters for Chairman's office as requested by Christine Delorme -- for your review

This looks good. One Google WiFi, which David asks about periodically, (b)(5)

(b)(5)

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Eichorn, Mark
Sent: Monday, October 04, 2010 3:40 PM
To: Rich, Jessica L.; Kaufman, Daniel
Cc: Mithal, Maneesha
Subject: Summary of pending Google matters for Chairman's office as requested by Christine Delorme -- for your review

Not Responsive

(b)(5)

(b)(5)

Not Responsive

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Thursday, October 28, 2010 9:08 AM
To: Rich, Jessica L.
Subject: FW: Google Wi-fi Petition

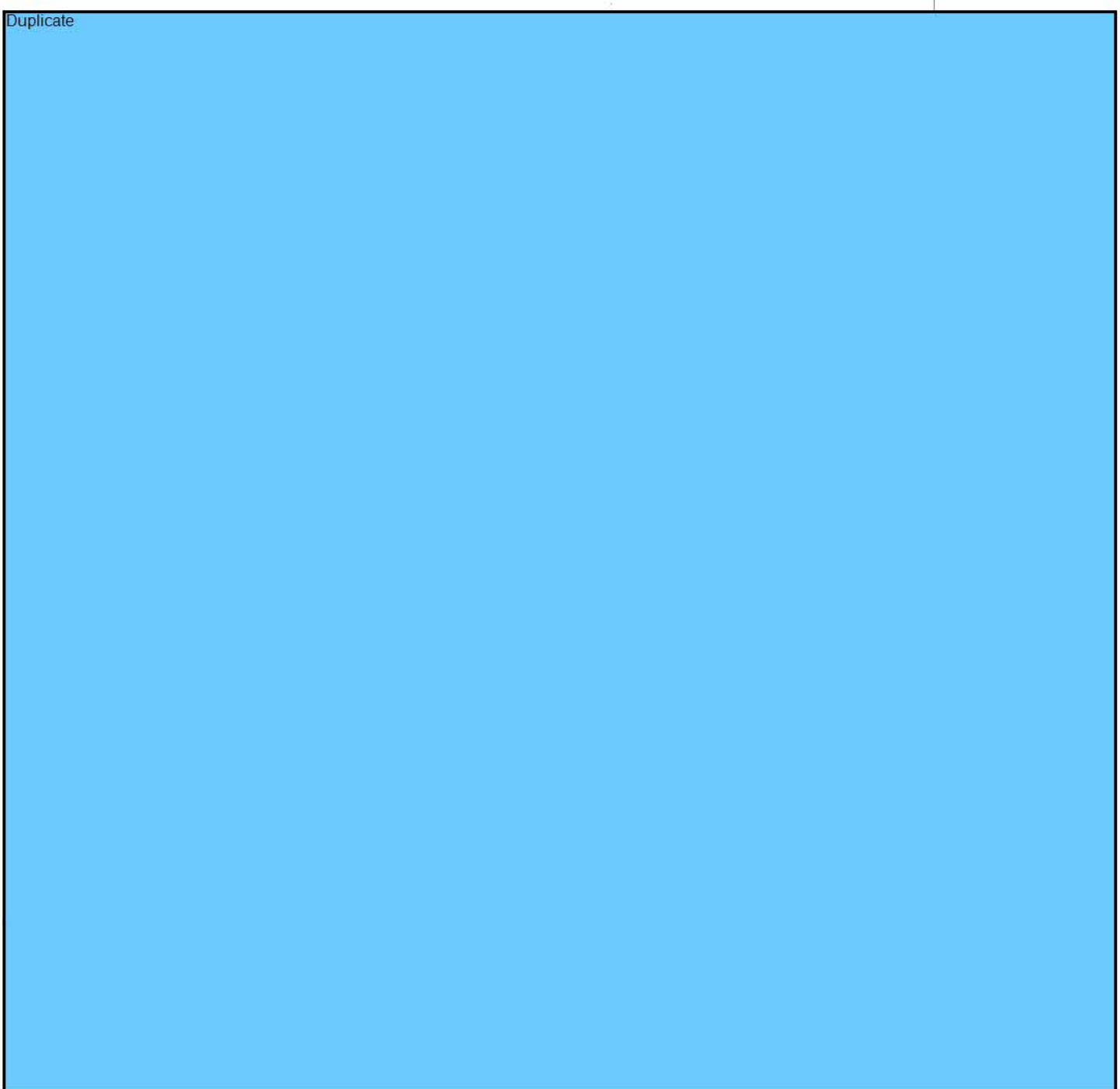
Tracking:

Recipient	Delivery	Read
Rich, Jessica L.	Delivered: 10/28/2010 9:08 AM	Read: 10/28/2010 9:21 AM

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Wednesday, November 03, 2010 4:04 PM
To: Rich, Jessica L.
Subject: FW: FCC letter re WiFi
Attachments: Google LOI Letter 110310.pdf



Mithal, Maneesha

From: Frankle, Janice Podoll
Sent: Tuesday, October 26, 2010 10:39 PM
To: Mithal, Maneesha; Clark, Donald S.
Subject: RE: WiFi letter

Don and Maneesha: I'll get the Webteam to post this at 9 am tomorrow. Thanks.
Janice

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 9:00 PM
To: Clark, Donald S.; Frankle, Janice Podoll
Subject: Fw: WiFi letter
Importance: High

Letter to be posted at 9 am is attached. It should go on the staff letters page. Thanks!

From: Ratte, Kathryn D.
To: 'Gidari, Al (Perkins Coie)' <AGidari@perkinscoie.com>
Cc: Mithal, Maneesha; Brin, Katherine Race
Sent: Tue Oct 26 19:39:47 2010
Subject: WiFi letter

Dear Al,

Per our discussion yesterday, attached please find the FTC's letter relating to Google's collection of WiFi data. We plan to release this letter publicly tomorrow. Please let Jane and any other Google folks who are in Jerusalem know this is coming out because David plans to discuss it at the meetings there.

Thanks, as always, for your cooperation.

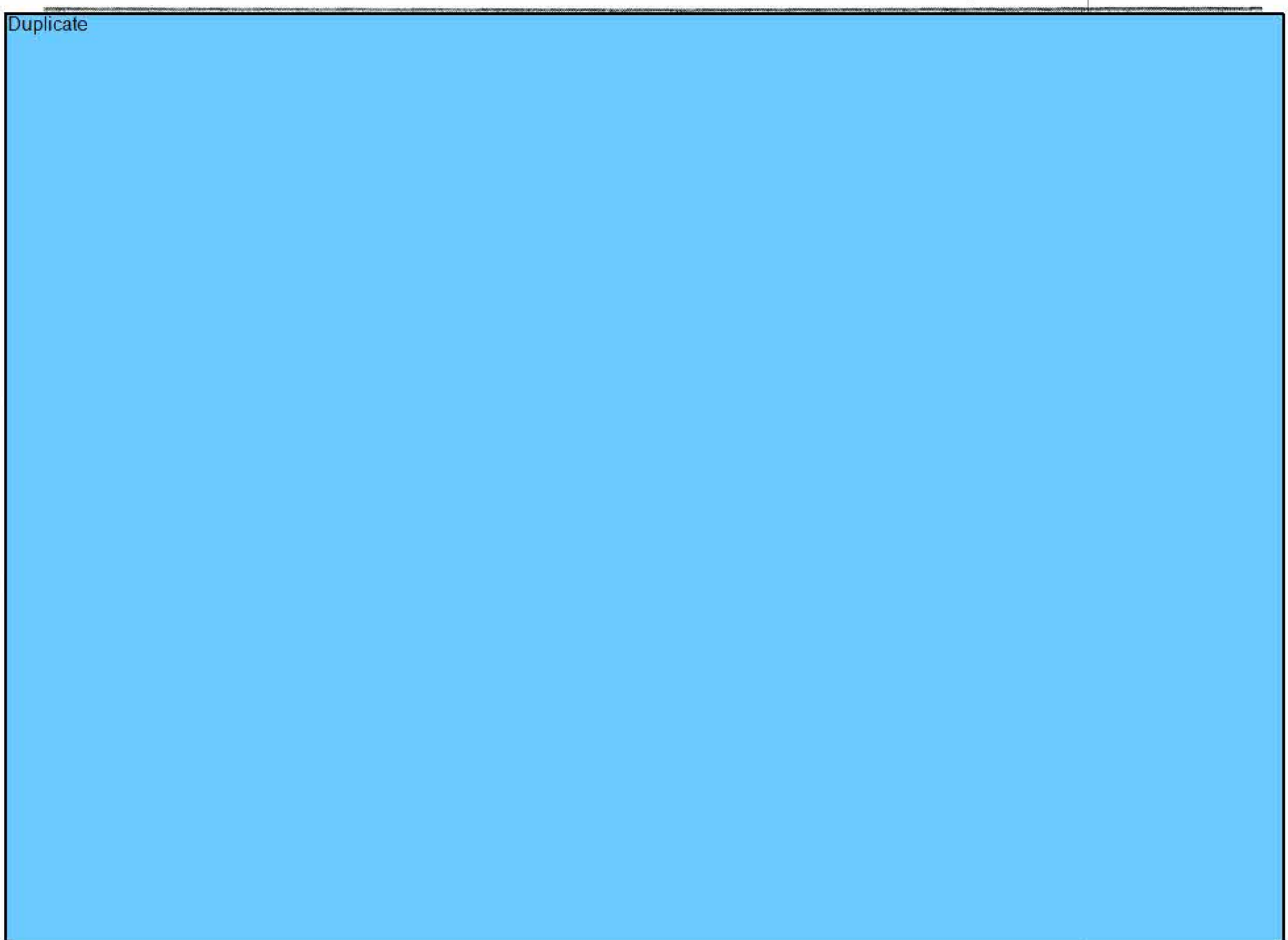
Best regards,
Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 7:45 PM
To: Rich, Jessica L.; Vladeck, David; Weinman, Yael
Subject: Fw: WiFi letter
Importance: High
Attachments: 10.27.10 letter.pdf

We're asking Don Clark to post at 9 am.



Mithal, Maneesha

From: Clark, Donald S.
Sent: Tuesday, October 26, 2010 6:45 PM
To: Farrell, Claudia B.; Prewett, Cecelia
Cc: Mithal, Maneesha; Frankle, Janice Podoll; Tabor, April
Subject: RE: 2 things

Claudia, thanks; Maneesha, could you email a copy of the letter to April, Janice, and me, so that we can post it tomorrow morning at 9 a.m.? Thanks!

Don

From: Farrell, Claudia B.
Sent: Tuesday, October 26, 2010 6:06 PM
To: Prewett, Cecelia
Cc: Mithal, Maneesha; Clark, Donald S.; Frankle, Janice Podoll
Subject: 2 things

Maneesha is going to ask Don to post the letter at 9 AM and send us a hyperlink. She said that David plans to discuss this in Jerusalem, so he might break the news for us. Google's attorneys got the letter tonight, so they might e-mail their contingent in Jerusalem, and they might break the news by declaring that they have been vindicated by the FTC. (If I were them, that's what I'd do.)

Jon is going to do the interview on ABA vs.. FTC. He will do it shortly before your 11 AM meeting.

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 6:48 PM
To: Mithal, Maneesha
Subject: Re: Google letter

It's fine - Molly said that there can be metadata lurking in the publish to .pdf option, so we'll do that.

From: Mithal, Maneesha
To: Ratte, Kathryn D.
Sent: Tue Oct 26 18:46:04 2010
Subject: Re: Google letter

Forget signing!

From: Ratte, Kathryn D.
To: Mithal, Maneesha
Sent: Tue Oct 26 18:44:09 2010
Subject: Re: Google letter

I will cc you so that you can forward it to Don.

From: Mithal, Maneesha
To: Ratte, Kathryn D.
Sent: Tue Oct 26 18:06:26 2010
Subject: Fw: Google letter

Also it's being posted at 9 am, so I think you should sign for David, and I'll send the pdf to Don Clark.

From: Mithal, Maneesha
To: Ratte, Kathryn D.
Sent: Tue Oct 26 18:05:36 2010
Subject: Re: Google letter

Go ahead and send it. The Commissioners' negative option has expired.

From: Ratte, Kathryn D.
To: Mithal, Maneesha
Sent: Tue Oct 26 17:43:59 2010
Subject: Google letter

I think I should wait until we know it's not changing – or were you confirming that in your message? If it's final, I can .pdf it and send it unsigned with a signed copy to be provided tomorrow. If not, I think we should wait to hear back from Debbie.

Kathryn Ratté

Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 6:43 PM
To: Mithal, Maneesha
Subject: Re: Google letter

I don't know how to send to .pdf after signing, but luckily I am still with the talented and gracious Molly Crawford, so we'll do it and send it off in about an hour.

From: Mithal, Maneesha
To: Ratte, Kathryn D.
Sent: Tue Oct 26 18:08:35 2010
Subject: Fw: Google letter

If you've pdf'd without signing - no problem, I'll sign in am.

Mithal, Maneesha

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 1:54 PM
To: Delaney, Elizabeth; Mithal, Maneesha
Subject: RE: Google wi-fi letter

Thanks Beth -- good observations.

From: Delaney, Elizabeth
Sent: Tuesday, October 26, 2010 12:53 PM
To: Mithal, Maneesha; Matties, Deborah J.
Subject: Google wi-fi letter

Hi Maneesha and Debbie,
The Commissioner is fine with David sending out the letter as he sees fit. I have attached a couple of suggestions, which you may or may not want to consider. Thanks!

Beth

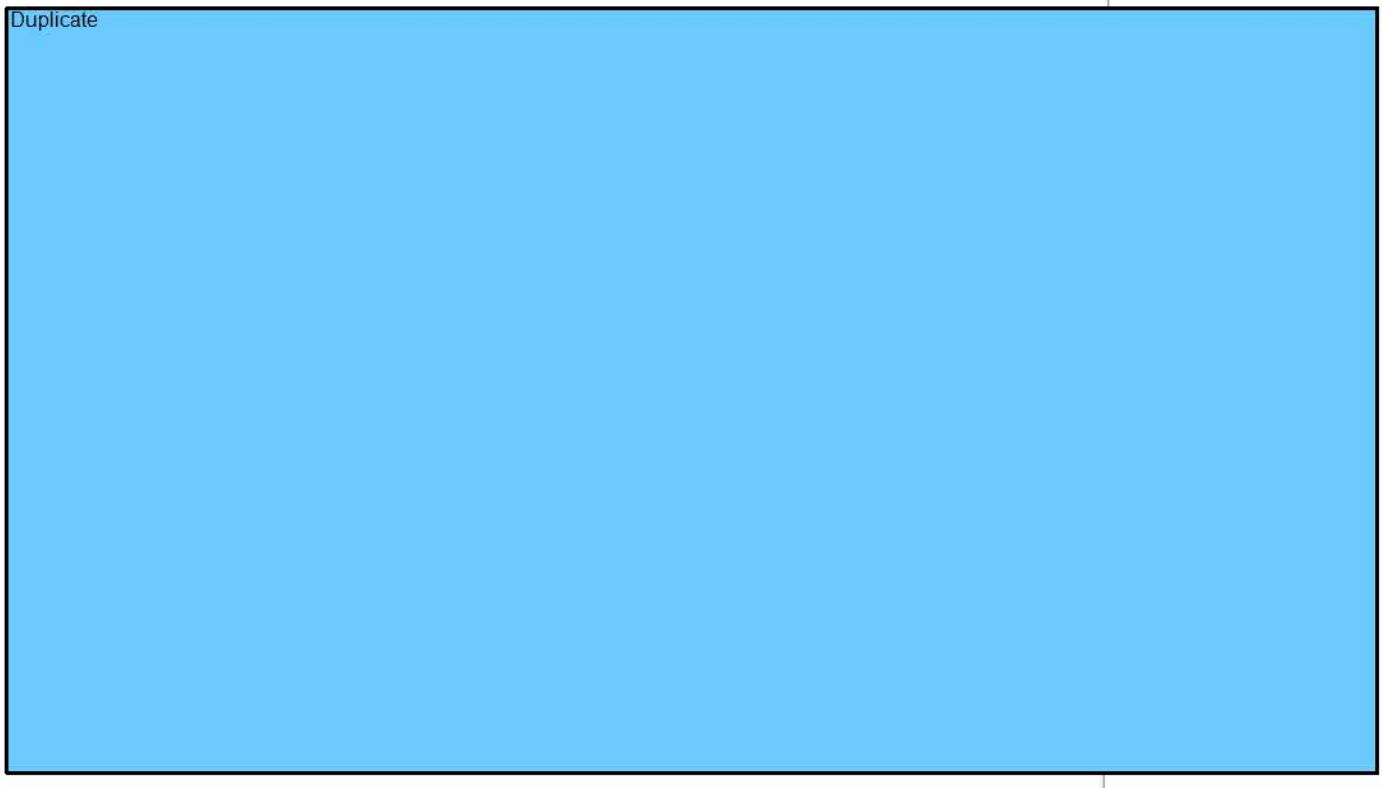
Mithal, Maneesha

From: Brin, Katherine Race
Sent: Tuesday, October 26, 2010 1:11 PM
To: Mithal, Maneesha; Ratte, Kathryn D.
Cc: Rich, Jessica L.
Subject: RE: Google wi-fi letter

Good news.

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 1:07 PM
To: Brin, Katherine Race; Ratte, Kathryn D.
Cc: Rich, Jessica L.
Subject: Fw: Google wi-fi letter

I'll take care of these, but it looks like we have all Comm'rs signed off and will be sending this out today. I'm waiting to hear on timing from Debbie/OPA, so it would be great if you could hold off on calling Al.



Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 1:08 PM
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Rich, Jessica L.
Subject: Fw: Google wi-fi
Attachments: Redline Draft Google wi fi letter 10 25 10.wpd

FYI - I'll send you the final version for your review before it goes out.

From: Kestenbaum, Janis
To: Mithal, Maneesha
Cc: Matties, Deborah J.
Sent: Tue Oct 26 11:39:42 2010
Subject: RE: Google wi-fi

Maneesha,
Please see Commissioner Ramirez's proposed edits in the attached redline.

Thanks,
Janis

Duplicate

Mithal, Maneesha

From: Matties, Deborah J.
Sent: Tuesday, October 26, 2010 1:59 PM
To: Kestenbaum, Janis; Mithal, Maneesha
Subject: RE: Google wi-fi

Thanks Janis -- (b)(5)

(b)(5)

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 9:28 AM
To: Delaney, Elizabeth
Subject: RE: Google wi-fi

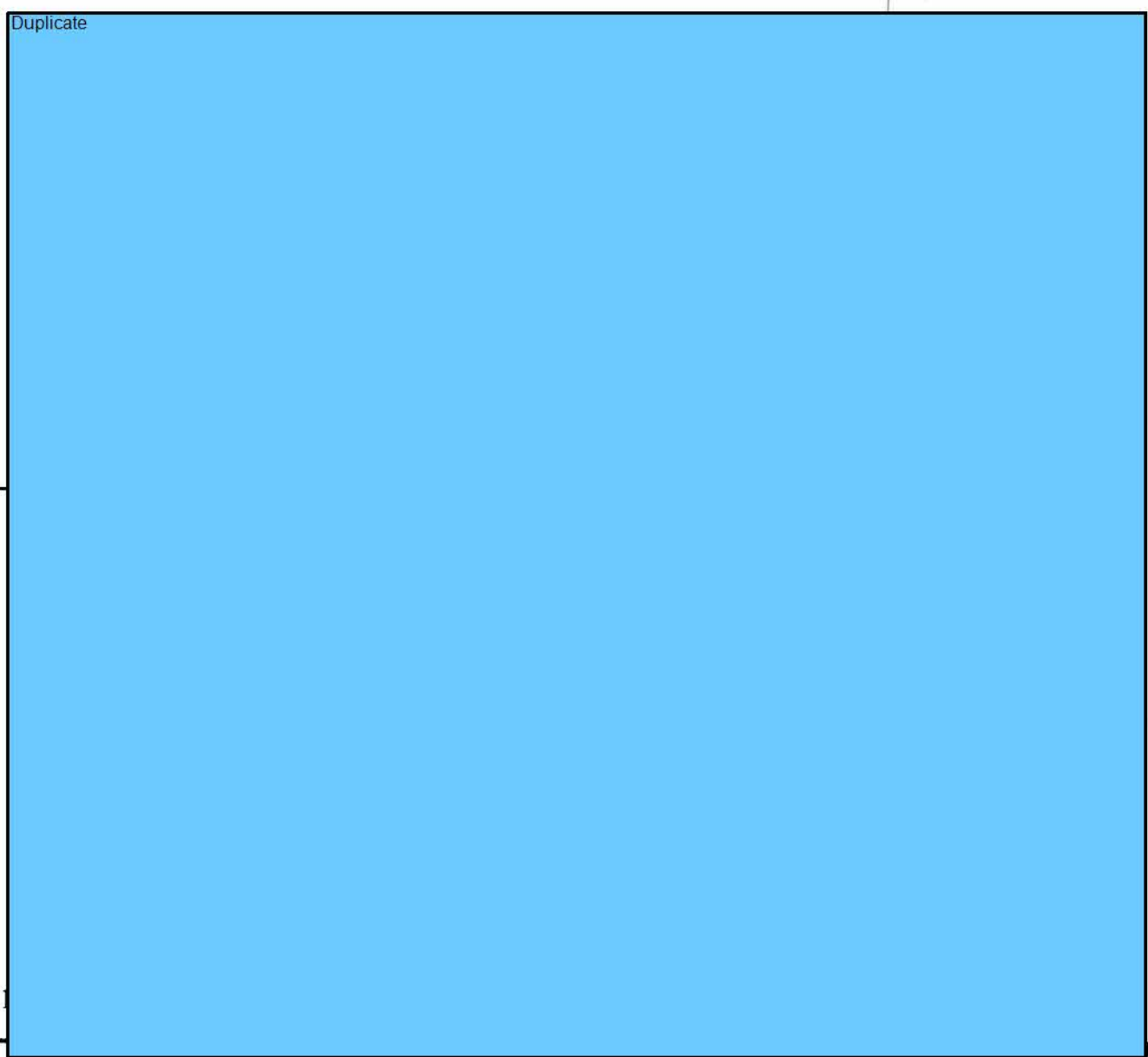
Tracking:

Recipient	Delivery	Read
Delaney, Elizabeth	Delivered: 10/26/2010 9:28 AM	Read: 10/26/2010 9:28 AM

OK, sorry!

From: Delaney, Elizabeth
Sent: Tuesday, October 26, 2010 9:27 AM
To: Mithal, Maneesha
Subject: RE: Google wi-fi

Hey Maneesha,
FYI, Dave Koehler doesn't start in our office until November 8th, so he can be added to the AA circulations then. Thanks!



Mithal, Maneesha

From: Mithal, Maneesha
Sent: Tuesday, October 26, 2010 9:27 AM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: RE: Google wi-fi

Tracking:

Recipient	Delivery
Ratte, Kathryn D.	Delivered: 10/26/2010 9:27 AM
Brin, Katherine Race	Delivered: 10/26/2010 9:27 AM
Eichorn, Mark	Delivered: 10/26/2010 9:27 AM

Don't worry – I have your email.

From: Ratte, Kathryn D.
Sent: Tuesday, October 26, 2010 9:27 AM
To: Mithal, Maneesha; Brin, Katherine Race; Eichorn, Mark
Subject: Re: Google wi-fi

I think we agreed to two of Carolyn's changes but not the third - I can dig up the email when I get to work (at the dr now).

Duplicate

Mithal, Maneesha

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 4:56 PM
To: Mithal, Maneesha
Subject: RE: Google wi-fi

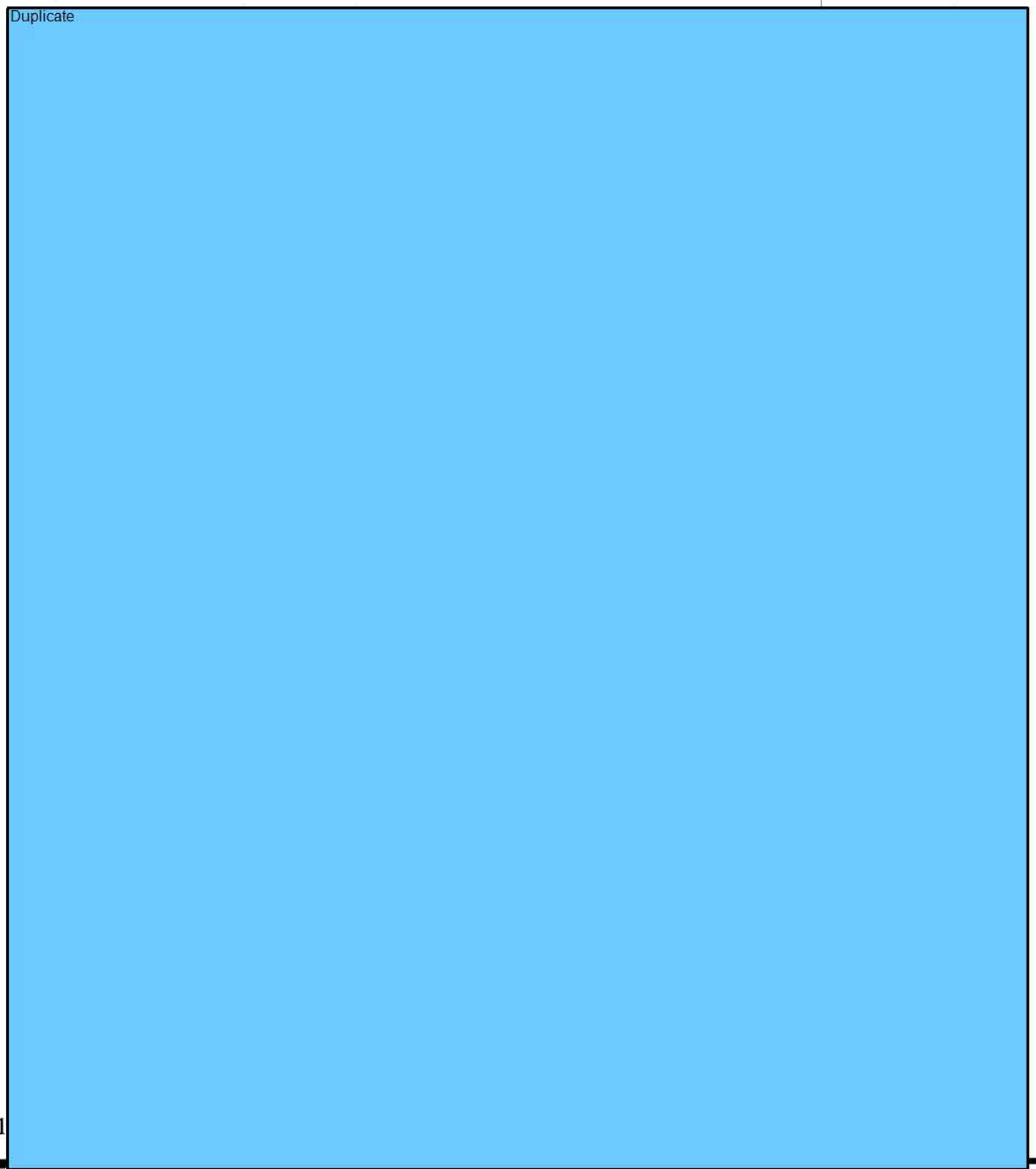
(b)(5)

Duplicate

Mithal, Maneesha

From: Matties, Deborah J.
Sent: Monday, October 25, 2010 4:53 PM
To: Mithal, Maneesha
Subject: RE: Google wi-fi

Perfect. Thanks.



Mithal, Maneesha

From: Rich, Jessica L.
Sent: Monday, October 25, 2010 4:23 PM
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: call with Google's counsel

Great. I don't think the email has gone to the attorney advisors yet, so this will go out tomorrow at the earliest.

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 4:22 PM
To: Rich, Jessica L.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: call with Google's counsel

(b)(5)

From: Rich, Jessica L.
Sent: Monday, October 25, 2010 4:20 PM
To: Ratte, Kathryn D.; Mithal, Maneesha; Eichorn, Mark
Cc: Brin, Katherine Race
Subject: RE: call with Google's counsel

(b)(5)

Jessica Rich, Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
202-326-2148

Not Responsive

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 2:27 PM
To: Matties, Deborah J.
Subject: note to Commissioners re Google Wi-fi
Attachments: monday morning version.wpd

Tracking:

Recipient	Delivery
Matties, Deborah J.	Delivered: 10/25/2010 2:27 PM

Debbie – let me know if you'd like to me to send this to the Commissioners or if you'd rather do so.

(b)(5)

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 1:27 PM
To: 'Rich, Jessica L.'; Eichorn, Mark; 'Ratte, Kathryn D.'; Brin, Katherine Race; Shanoff, Carolyn
Subject: talking points on wifi letter

Tracking:

Recipient	Delivery	Read
'Rich, Jessica L.'	Delivered: 10/25/2010 1:27 PM	
Eichorn, Mark	Delivered: 10/25/2010 1:27 PM	
'Ratte, Kathryn D.'	Delivered: 10/25/2010 1:27 PM	Read: 10/25/2010 1:33 PM
Brin, Katherine Race	Delivered: 10/25/2010 1:27 PM	
Shanoff, Carolyn	Delivered: 10/25/2010 1:27 PM	Read: 10/25/2010 1:34 PM

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 1:19 PM
To: 'Ratte, Kathryn D.'; Brin, Katherine Race; Eichorn, Mark; 'Rich, Jessica L.'
Subject: draft cover note to the Commission

Tracking:

Recipient	Delivery	Read
'Ratte, Kathryn D.'	Delivered: 10/25/2010 1:19 PM	Read: 10/25/2010 1:20 PM
Brin, Katherine Race	Delivered: 10/25/2010 1:19 PM	
Eichorn, Mark	Delivered: 10/25/2010 1:19 PM	
'Rich, Jessica L.'	Delivered: 10/25/2010 1:19 PM	

Do I need to share this with Debbie first?

(b)(5)

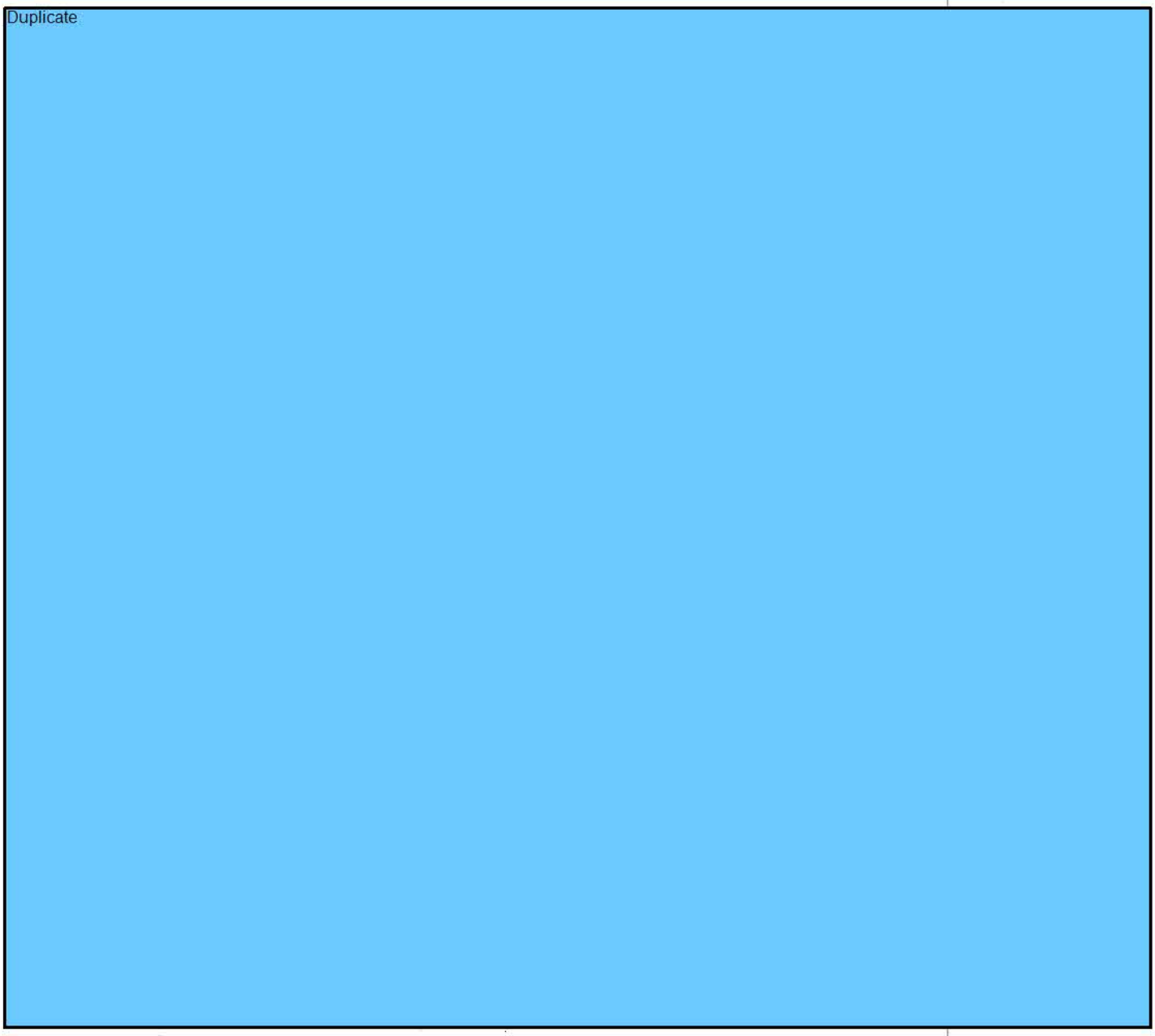
Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 12:59 PM
To: 'Rich, Jessica L.'
Subject: FW: google

Tracking:

Recipient	Delivery
'Rich, Jessica L.'	Delivered: 10/25/2010 1:01 PM

FYI.



Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 1:16 PM
To: 'Ratte, Kathryn D.'
Subject: RE: google

Tracking:

Recipient	Delivery	Read
'Ratte, Kathryn D.'	Delivered: 10/25/2010 1:16 PM	Read: 10/25/2010 1:17 PM

OK, thanks for the email -- I hope we're good.

I also tried to send you an email Saturday night, which didn't go through (basically, a Katie-you're-so-awesome email). I'll resend.

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 11:57 AM
To: 'Rich, Jessica L.'; Matties, Deborah J.
Subject: RE: Google wi-fi - heads up for Monday

Tracking:

Recipient	Delivery
'Rich, Jessica L.'	Delivered: 10/25/2010 11:57 AM
Matties, Deborah J.	Delivered: 10/25/2010 11:57 AM

(b)(5)

Duplicate

11/

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 11:51 AM
To: 'Ratte, Kathryn D.'; Brin, Katherine Race; Eichorn, Mark
Subject: RE: Google wi-fi - heads up for Monday

Tracking:

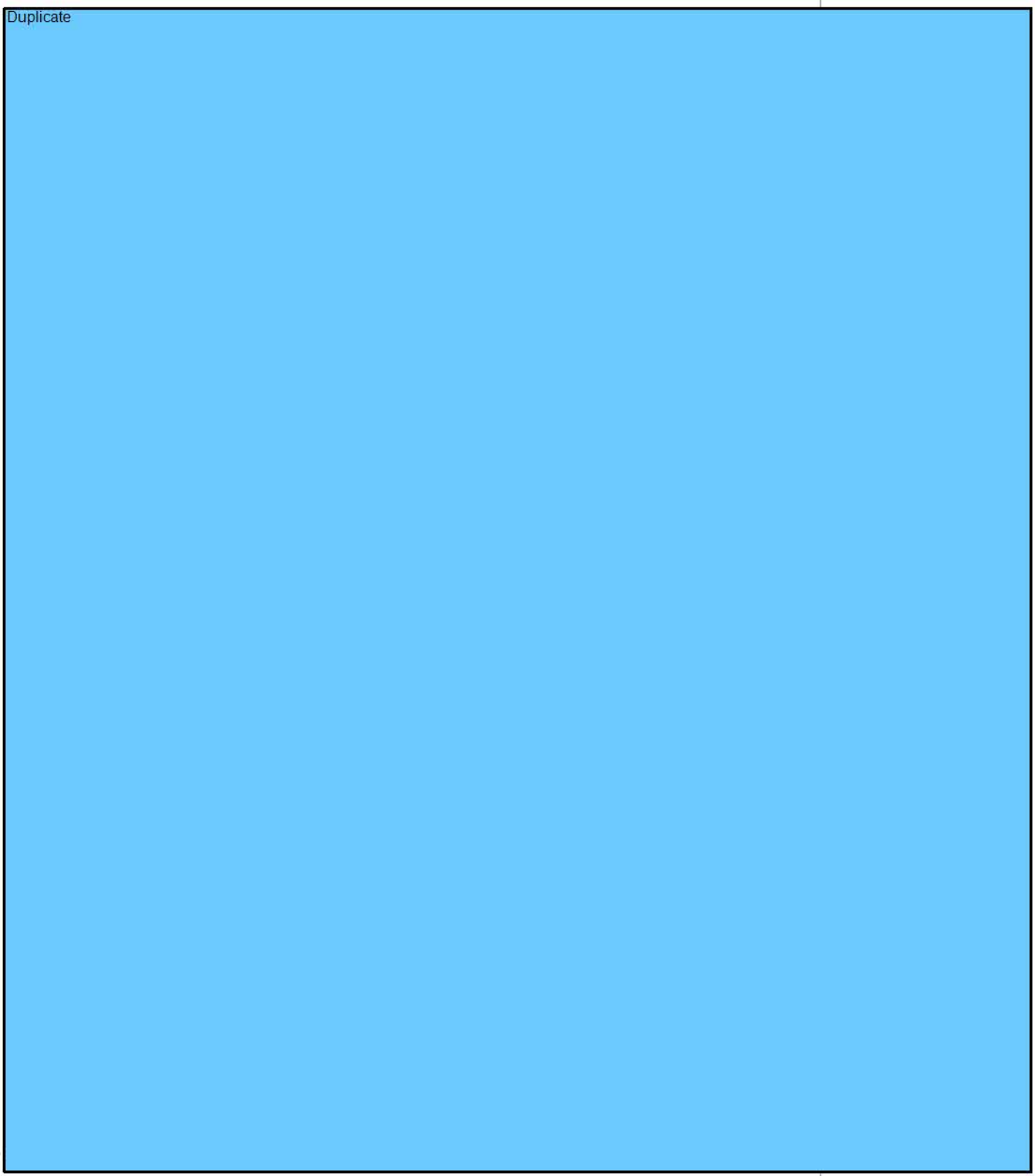
Recipient	Delivery	Read
'Ratte, Kathryn D.'	Delivered: 10/25/2010 11:51 AM	Read: 10/25/2010 12:13 PM
Brin, Katherine Race	Delivered: 10/25/2010 11:51 AM	
Eichorn, Mark	Delivered: 10/25/2010 11:51 AM	

Duplicate

Mithal, Maneesha

From: Ratte, Kathryn D.
Sent: Monday, October 25, 2010 11:18 AM
To: Brin, Katherine Race; Mithal, Maneesha; Eichorn, Mark
Subject: RE: Google wi-fi - heads up for Monday

I'll be stuck on this cloud computing call until 12:30, but feel free to proceed without me.



Mithal, Maneesha

From: Mithal, Maneesha
Sent: Monday, October 25, 2010 11:15 AM
To: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark
Subject: FW: Google wi-fi - heads up for Monday

Tracking:

Recipient	Delivery	Read
Ratte, Kathryn D.	Delivered: 10/25/2010 11:15 AM	Read: 10/25/2010 11:16 AM
Brin, Katherine Race	Delivered: 10/25/2010 11:15 AM	
Eichorn, Mark	Delivered: 10/25/2010 11:15 AM	

Duplicate

Mithal, Maneesha

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 11:13 AM
To: Mithal, Maneesha; Rich, Jessica L.
Cc: Dawson, Rachel Miller; Sannappa, Nithan
Subject: FW: Google wi-fi - heads up for Monday

Maneehsa, here are comments from OGC:

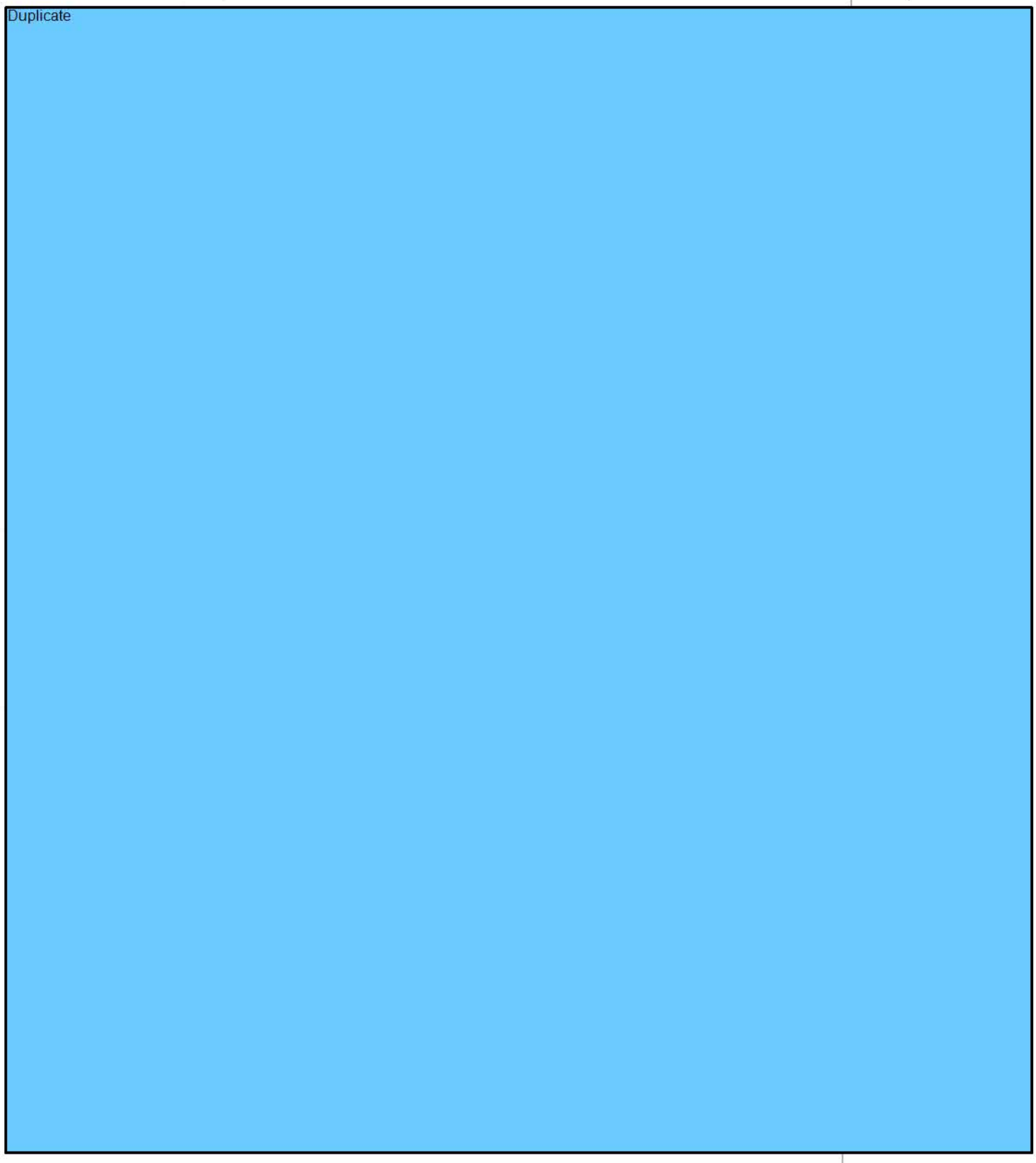
(b)(5)

Duplicate

Mithal, Maneesha

From: Mithal, Maneesha
Sent: Sunday, October 24, 2010 10:24 PM
To: Rich, Jessica L.
Subject: Re: Google wi-fi - heads up for Monday

You're up late - hope you had fun at the conf, and look forward to hearing about it tomorrow!



Corrigan, Sarah E.

From: Mithal, Maneesha
Sent: Monday, October 04, 2010 3:37 PM
To: Eichorn, Mark

Not Responsive

Looks great – could you send to Jessica and Daniel for review? Thanks!

From: Eichorn, Mark
Sent: Monday, October 04, 2010 3:28 PM
To: Mithal, Maneesha
Subject: Not Responsive

Not Responsive

(b)(5)

Not Responsive

Cc: Kaufman, Daniel; Rich, Jessica L.; Mithal, Malini

Not Responsive

Chris,

Not Responsive

In a related request, Jon would also like a similar update on what's going on with our Google investigations.

Thanks,
Christine

Not Responsive

Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Thursday, May 27, 2010 2:18 PM
To: Ratte, Kathryn D.
Subject: FW: Notification to Not Responsive and Google
Attachments: Notification Letter regarding Pryor Request v.2.wpd

Tracking:

Recipient	Delivery	Read
Ratte, Kathryn D.	Delivered: 5/27/2010 2:19 PM	Read: 5/27/2010 2:20 PM

Katie,

Here is a copy of the notification letter that we put together before the Pryor briefing. (b)(5) (b)(5) Lisa tells me that you plan to notify Google regarding the Markey-Barton request. You should modify the attached letter, making sure to change the name of the requesting members/Subcommittee in the first paragraph, and the name and contact information for the Subcommittee Counsel in the last paragraph (Kim should have that information).

Given the tight timeframe on this, you should probably call Google over the phone and notify them of the briefing, and that they will receive this letter in confirmation.

Nithan

Not Responsive

Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Tuesday, May 25, 2010 2:21 PM
To: Matz, Bethany E.
Cc: Ratte, Kathryn D.
Subject: FW: revised memo and letters re: cong inquiry into Google Wi-Fi
Attachments: Energy and Commerce Non-Public Briefing on Google WiFi memo 05.24.10.wpd; Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.Barton.wpd; Energy and Commerce Nonpublic Briefing on Google WiFi chmn letter.Markey.wpd

Tracking:

Recipient	Delivery	Read
Matz, Bethany E.	Delivered: 5/25/2010 2:21 PM	Read: 5/25/2010 2:21 PM
Ratte, Kathryn D.	Delivered: 5/25/2010 2:21 PM	Read: 5/25/2010 2:21 PM

Hi Bethany,

Lisa forwarded your email in which you asked about OGC sign off on the package. Chris White will be signing for OGC. However, I noticed that the email you sent to Lisa attached an outdated version of the memo and letter. Here is the latest version that Katie Ratte sent out.

Katie, is this the final version? Are you waiting on any other edits?

Bethany, if you bring the final package to me, I will take care of getting Chris' signature.

Thanks,
Nithan

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 1:13 PM
To: Kaufman, Daniel; Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race; Sannappa, Nithan; Harrison, Lisa M.; Dawson, Rachel Miller
Subject: revised memo and letters re: cong inquiry into Google Wi-Fi

Hi everyone,

Attached are new versions of the Commission memo and responses from the Chairman to Markey and Barton's request for a nonpublic briefing on Google Wi-Fi, with OGC edits incorporated. Let me know if anyone has additional edits or questions.

Thanks! Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Dawson, Rachel Miller
Sent: Tuesday, May 18, 2010 8:58 AM
To: Harrison, Lisa M.; Sannappa, Nithan
Subject: Fw: URGENT: Google Deleting Data

From: Rich, Jessica L.
To: Matties, Deborah J.; Dawson, Rachel Miller; Kaufman, Daniel; Mithal, Maneesha
Cc: Vladeck, David
Sent: Tue May 18 08:33:53 2010
Subject: Re: URGENT: Google Deleting Data

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission

From: Matties, Deborah J.
To: Dawson, Rachel Miller; Kaufman, Daniel; Mithal, Maneesha; Rich, Jessica L.
Sent: Mon May 17 23:08:52 2010
Subject: Fw: URGENT: Google Deleting Data

Not sure if there's anything to this, but can you please see what you can find out? (b)(5)
(b)(5) - Rachel please forward inside OGC as needed.

-- Debbie

From: Davis, Robert
To: JDL; Matties, Deborah J.; DeLorme, Christine L.
Sent: Mon May 17 18:13:57 2010
Subject: Re: URGENT: Google Deleting Data

(b)(5)

From: JDL
To: Davis, Robert
Sent: Mon May 17 18:07:20 2010
Subject: FW: URGENT: Google Deleting Data

has the feel of cutting and pasting, but you should see this

From: Hilary Rosen [mailto:HRosen@brunswickgroup.com]

Sent: Monday, May 17, 2010 3:43 PM
To: JDL
Subject: URGENT: Google Deleting Data

Remember when the SEC stood by while Enron destroyed docs and Wall Street banks hid evidence? We don't want accusations that FTC going to stand by while Google destroys evidence of federal and state laws that they acknowledge have been violated? Shouldn't the FTC needs to act TODAY to ensure that this evidence is not destroyed.

http://googleblog.blogspot.com/2010/05/wifi-data-collection-update.html

On Friday May 14 the Irish Data Protection Authority asked us to delete the payload data we collected in error in Ireland. We can confirm that all data identified as being from Ireland was deleted over the weekend in the presence of an independent third party. We are reaching out to Data Protection Authorities in the other relevant countries about how to dispose of the remaining data as quickly as possible.

Disclaimer: This Email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the intended recipient, you are hereby notified that any use or dissemination of this communication is strictly prohibited. If you have received this Email in error, please notify us immediately, then delete this email.

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 4:47 PM
To: Dawson, Rachel Miller; Sannappa, Nithan
Subject: FW: Google wi-fi
Attachments: wi fi letter 10.25.10.wpd

FYI

Duplicate

Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Wednesday, June 09, 2010 10:59 AM
To: Harrison, Lisa M.
Subject: FW: Google Wi-Fi briefing Friday

Attachments: Notification Letter regarding Markey Request.wpd

Notification Letter regarding ...

YI. The letter looks fine to me. I don't think it matters whether Maneesha or Katie is listed as the contact. Is someone from OGC planning on attending? I can go, but haven't been on any of the schedulers...

Duplicate

Tracking:

Recipient	Delivery	Read
Harrison, Lisa M.	Delivered: 6/9/2010 10:59 AM	Read: 6/9/2010 12:53 PM

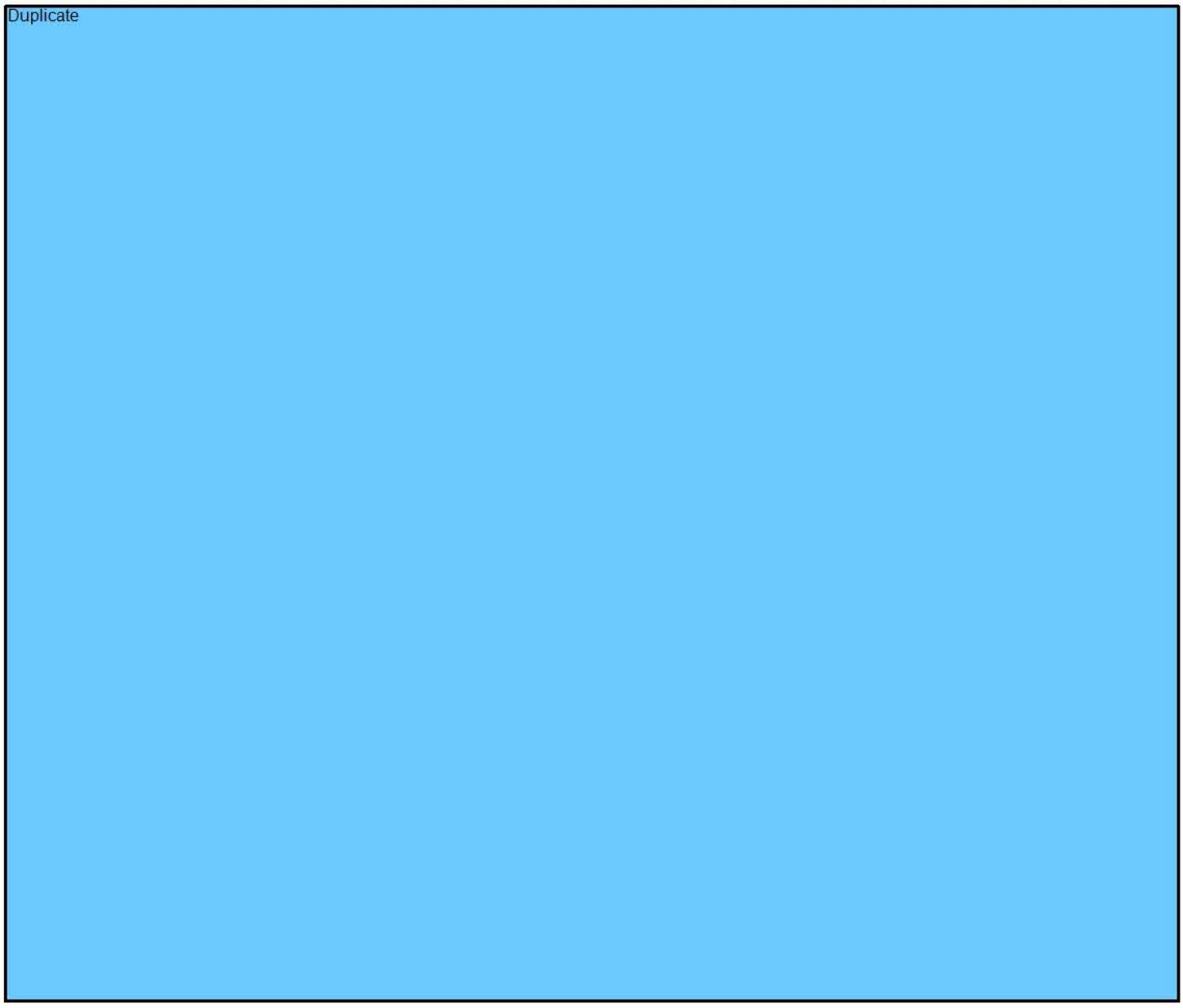
Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Wednesday, June 09, 2010 5:44 PM
To: Harrison, Lisa M.; Dawson, Rachel Miller
Subject: FW: Google Wi-Fi letter
Attachments: Google WiFi letter.pdf

Tracking:

Recipient	Delivery	Read
Harrison, Lisa M.	Delivered: 6/9/2010 5:44 PM	Read: 6/9/2010 5:45 PM
Dawson, Rachel Miller	Delivered: 6/9/2010 5:44 PM	

FYI



Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Tuesday, May 25, 2010 3:12 PM
To: Ratte, Kathryn D.
Subject: RE: draft Commission memo and Chairman response to Markey briefing request

Tracking:

Recipient	Delivery	Read
Ratte, Kathryn D.	Delivered: 5/25/2010 3:12 PM	Read: 5/25/2010 3:13 PM

Yeah, exactly – ok, just making sure as I hadn't seen the 1:30 circulation. Thanks.

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 3:10 PM
To: Sannappa, Nithan
Subject: RE: draft Commission memo and Chairman response to Markey briefing request

The attached ones are the wrong ones (b)(5) (b)(5) Maneesha must have sent those to Bethany minutes before I circulated the new versions. Thanks for double checking.

From: Sannappa, Nithan
Sent: Tuesday, May 25, 2010 3:08 PM
To: Ratte, Kathryn D.
Subject: FW: draft Commission memo and Chairman response to Markey briefing request

Hey Katie – this was the email that Bethany sent us, which included the outdated attachments. As you can see, Maneesha sent this to Bethany at 1:26. This isn't what you are referring to when you say the final versions are the ones that were "circulated at 1:30," right? Just want to make sure everyone has the updated versions. Thanks.

From: Harrison, Lisa M.
Sent: Tuesday, May 25, 2010 2:01 PM
To: Sannappa, Nithan
Subject: FW: draft Commission memo and Chairman response to Markey briefing request

---

From: Matz, Bethany E.
Sent: Tuesday, May 25, 2010 1:31 PM
To: Harrison, Lisa M.
Subject: FW: draft Commission memo and Chairman response to Markey briefing request

Hi Lisa – have you seen this package? Is anyone available today at OGC to sign this? (my management is at the retreat) thanks.

From: Mithal, Maneesha
Sent: Tuesday, May 25, 2010 1:26 PM

To: Matz, Bethany E.
Subject: FW: draft Commission memo and Chairman response to Markey briefing request

---

From: Ratte, Kathryn D.
Sent: Tuesday, May 25, 2010 10:23 AM
To: Kaufman, Daniel
Cc: Mithal, Maneesha; Eichorn, Mark; Brin, Katherine Race
Subject: draft Commission memo and Chairman response to Markey briefing request

Hi Daniel,

Attached is a draft Commission memo and response from the Chairman to a request from Reps. Barton and Markey for a nonpublic briefing on the Google Wi-Fi data collection / Street View issue. I also attach a copy of the original request. Let me know if you have edits or questions. Thanks! Katie

Kathryn Ratté
Division of Privacy and Identity Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Mail Stop NJ-8122
Washington, D.C. 20580
Phone: (202) 326-3514
Fax: (202) 326-3768

Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Monday, October 25, 2010 10:59 AM
To: Harrison, Lisa M.
Subject: RE: Google wi-fi - heads up for Monday

Tracking:

Recipient	Delivery	Read
Harrison, Lisa M.	Delivered: 10/25/2010 10:59 AM	Read: 10/25/2010 10:59 AM

Lisa – I think the letter looks fine over all. (b)(5)

(b)(5)

Duplicate

Corrigan, Sarah E.

From: Sannappa, Nithan
Sent: Monday, May 24, 2010 3:56 PM
To: Harrison, Lisa M.
Cc: Dawson, Rachel Miller
Subject: RE: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Tracking:

Recipient	Delivery	Read
Harrison, Lisa M.	Delivered: 5/24/2010 3:56 PM	Read: 5/24/2010 3:57 PM
Dawson, Rachel Miller	Delivered: 5/24/2010 3:56 PM	

Overall, this looks good – they just copied from the Pryor memo/letter we had provided. Two questions:

(b)(5)

Other than that, looks good to go.

Nithan

From: Harrison, Lisa M.
Sent: Monday, May 24, 2010 3:39 PM
To: Sannappa, Nithan
Cc: Dawson, Rachel Miller
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

Nithan, can you take a look at this?

From: Eichorn, Mark
Sent: Monday, May 24, 2010 3:38 PM
To: Harrison, Lisa M.; Dawson, Rachel Miller
Cc: Brin, Katherine Race; Ratte, Kathryn D.
Subject: FW: Markey-Barton Request for Non-Public Briefing on Google Wi-Fi

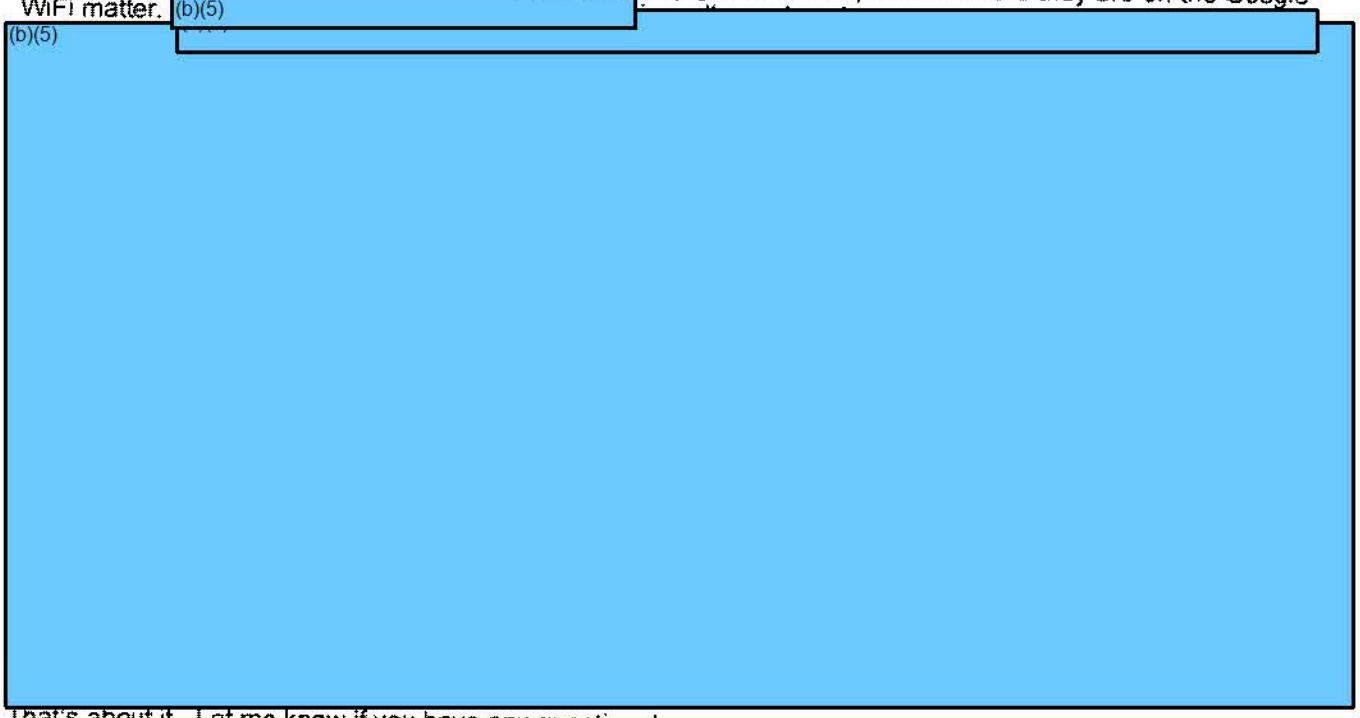
Here is a draft memo and letter for the non-public briefing on Google Wifi. Please review and, if OK, we'll pass along to the Bureau. Thanks.

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Thursday, August 05, 2010 4:36 PM
To: Ratte, Kathryn D.
Subject: Recap of State AG call today

I just got off the phone with Scott and Christine, and they gave me an update of where they are on the Google WiFi matter. (b)(5)

(b)(5)



That's about it. Let me know if you have any questions!

Thanks,
Katie

Katherine Race Brin
Division of Privacy and Identity Protection
Federal Trade Commission
601 New Jersey Avenue, NW
Mail Stop NJ-8122
Washington, DC 20001
(202) 326-2106 (phone)
(202) 326-3768 (fax)
kbrin@ftc.gov

Ratte, Kathryn D.

From: Brin, Katherine Race
Sent: Tuesday, August 03, 2010 2:17 PM
To: Ratte, Kathryn D.; Olsen, Christopher; Soghoian, Christopher
Cc: Eichorn, Mark
Subject: RE: Fcc re google wi-fi

I just got of the phone with Suzanne and her associate, Katrina. (b)(5)

(b)(5) (b)(5) (b)(5)

Let me know if you have any questions.

Thanks,
Katie

Not Responsive

----- Original Message -----
From: Brin, Katherine Race
To: Olsen, Christopher; Soghoian, Christopher; Ratte, Kathryn D.
Sent: Mon Aug 02 16:45:29 2010
Subject: RE: Fcc re google wi-fi

Katie R. had originally scheduled a call with Suzanne for today, but then it turned out that both of us were going to be out of the office. My jury duty just ended (thank goodness), so I'll be in the rest of the week. I am happy to talk to Suzanne, but I don't think there's a rush, so it might make sense to wait until Katie is back in the office. Either way is fine with me. We'll make sure to mention the issue Chris O. and Chris S. raise below.

(b)(6)

-----Original Message-----
From: Olsen, Christopher
Sent: Monday, August 02, 2010 1:26 PM
To: Soghoian, Christopher; Ratte, Kathryn D.; Brin, Katherine Race
Subject: Re: Fcc re google wi-fi

(b)(5)

----- Original Message -----
From: Soghoian, Christopher
To: Ratte, Kathryn D.; Olsen, Christopher; Brin, Katherine Race
Sent: Mon Aug 02 13:11:11 2010
Subject: RE: Fcc re google wi-fi

Just to clarify --

(b)(5)

Cheers

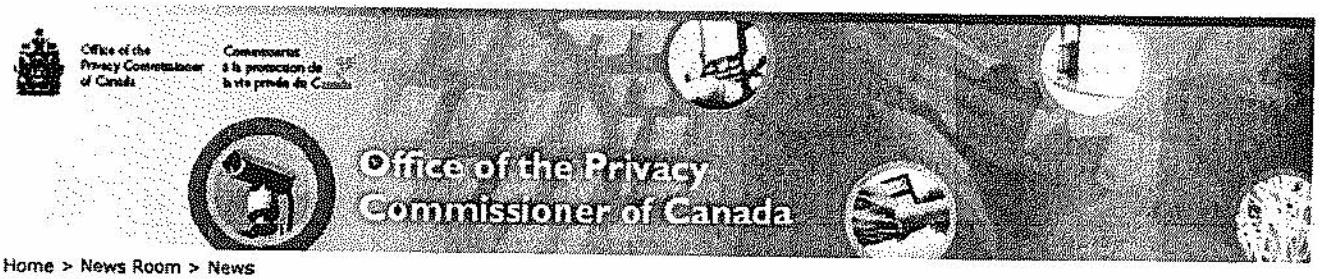
Chris

-----Original Message-----
From: Ratte, Kathryn D.
Sent: Monday, August 02, 2010 12:06 PM
To: Olsen, Christopher; Brin, Katherine Race
Cc: Soghoian, Christopher
Subject: Re: Fcc re google wi-fi

Katie Race Brin has jury duty this week, and I'm not sure what days I will be in the office (I'm still in New Orleans now). I will be sure to check in with Chris S. once we figure out our schedules and set something up with Suzanne.

----- Original Message -----
From: Olsen, Christopher
To: Ratte, Kathryn D.; Brin, Katherine Race
Cc: Soghoian, Christopher
Sent: Mon Aug 02 12:03:27 2010
Subject: Fcc re google wi-fi

Is someone talking to them this week re wi-fi? I recall someone mentioning a call with suzanne tetreault of their enforcement bureau. (b)(5) (b)(5) (b)(5) (b)(5) Chris S. Has the details.



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News

Preliminary Letter of Findings

Complaints under the *Personal Information Protection and Electronic Documents Act* (the *Act*)

1. The Office of the Privacy Commissioner of Canada initiated three complaints against Google Inc. (Google) on May 31, 2010, pursuant to subsection 11(2) of the *Act*, after being made aware that Google Street View cars had been collecting payload data from unencrypted WiFi networks during their collection of publicly broadcast WiFi signals (service set identifiers [SSID] information and Media Access Control ("MAC") addresses.
2. The three complaints are as follows:
   i. Google's collection, use or disclosure of payload data was done without the individual's prior knowledge and consent;
   ii. Google's collection of payload data was done without prior identification of the purposes for which personal information (PI) was collected;
   iii. Google's collection of payload data was not limited to that which was necessary for the purposes identified.

Summary of Investigation

3. Following a request from the German data protection authority in Hamburg to audit the WiFi data collected by Google's Street View cars during a location-based project, Google discovered in May 2010 that it had been collecting payload data from unsecured wireless networks as part of its collection of WiFi data. By Google's own admission, it appears that this inadvertent collection was due to the integration of the code developed in 2006 with the software used to collect WiFi signals. As a result, Google grounded its Street View cars, stopped the collection of WiFi network data on May 7, 2010, and segregated and stored all of the data already collected.
4. On June 1, 2010, our Office sent a letter to Google stating that she was launching an investigation with regard to its collection of payload data. Google responded on June 29, 2010.
5. On June 28, 2010, pursuant to subsection 11(2) of the *Act*, this Office requested to

undertake a site visit to Google's facility in Mountain View, California. The purpose of this site visit was twofold: 1) to allow the review of the payload data gathered by Google, and 2) to ask specific questions of Google's representatives, such as the circumstances surrounding this incident, the segregation and storage of the payload data, and the mitigation and prevention measures Google intended to implement.

6. Google agreed to a site visit. Two technical representatives from this Office then went to the Mountain View facility on July 19, 2010. Although our technicians reviewed the payload data, no Google representatives were available in Mountain View to answer our questions. Instead, by letter dated July 16, 2010, Google answered general questions we posed in a questionnaire we sent on July 12, 2010.

7. On August 18, 2010, a videoconference was held between Google's counsel and this Office in order to answer supplementary questions.

8. The results of our investigation into the three complaints against Google are summarized below in the following sections:
   A. Google's Product Counsel's involvement in product review;
   B. Circumstances surrounding the collection of payload data and technical testing;
   C. Personal information collected;
   D. Segregation and storage of the payload data;
   E. Google's future plans for its location-based services; and
   F. Privacy implications of future plans, and mitigation and prevention measures that Google intends to implement to prevent a recurrence.

A. Google's Product Counsel's involvement in product review

9. Google advised that it has a formal review process for each external product launch. ("External product" denotes a product to be offered to consumers.) This process requires that a Product Counsel assess, among other things, the privacy implications of the product.

10. Since the code ultimately used to sample all categories of publicly broadcast WiFi data is not considered by Google to be an external product, the formal review process did not apply.

11. However, our investigation learned that Google's code design procedure includes a template and process by which the code must be reviewed by Product Counsel before being used or integrated with another Google product. The template—a methodology document—is in fact mandatory and is the first step in the code design procedure.

12. Our investigation also learned that in the code design-procedure document for the particular code later to be used for the collection of WiFi signals, the engineer did identify one or more privacy concerns about the information collection. These relate to the fact that Google could obtain sufficient data to precisely triangulate a user's position at a given time.

(b)(5)

13. The engineer qualified his concerns as being "superficial privacy implications". He did not forward his code design documents to Product Counsel for review—contrary to company procedure. Thus, the code's privacy implications were never assessed.

14. We were also informed that Google's Product Counsel Members consist of practising lawyers with various legal backgrounds. Google claims that they usually have some private-sector experience in privacy issues.

15. According to Google, Product Counsel Members attend the same introductory training session available to all new Google employees. As well, Product Counsel Members participate in weekly privacy- and security-issue meetings. Google also claims that "Privacy is part of the ongoing CLE [Continuing Legal Education] obligations of Google counsel."

B. Circumstances surrounding the collection of payload data and

technical testing

16. Google allows its engineers to use 20% of their time to work on projects of interest to them. When using this time in 2006, a Google engineer developed code to sample all categories of publicly broadcast WiFi data.

17. The engineer involved included lines to the code that allowed for the collection of payload data. He thought it might be useful to Google in the future and that this type of collection would be appropriate.

18. This code was later used by Google when it decided to launch a particular location-based service. The service relies on a variety of signals (such as GPS, the location of cell towers and the location of WiFi access points) to provide the user with a location. Google installed antennas and appropriate software (including Kismet, an open-source application) on its Google Street View cars in order to collect publicly broadcast WiFi radio signals within the range of the cars while they travelled through an area. These signals are then processed to identify the WiFi networks (using their MAC address) and to map their approximate location (using the GPS co-ordinates of the car when the signal was received). This information on the identity of WiFi networks and their approximate location then populates the Google location-based services database.

19. In its representations to this Office, Google provided technical information on how it uses WiFi network data for location-based services. Google stated that its software does not store payload transmissions from encrypted networks, but that payload data sent over *unencrypted* WiFi networks is collected and "dumped" on a disk in raw format.

20. However, according to Google, the information thus collected would be fragmented because its cars are on the move when collection occurs and the equipment it uses to collect WiFi signals automatically changes channels five times per second.

21. To our investigation, Google acknowledged that it erred in including in the WiFi-network information-collecting software any code allowing the collection of payload data. Google contends that the code was primarily designed for data-collection software and that this purpose preceded its ultimate application in the collection of WiFi network information for location-based services. Google claims that it did not realize the presence of this code when it began using the software for its geo-location project.

22. It claims that when the decision was made to use the software for collecting publicly broadcast WiFi information, the code was reviewed for bugs and validated by a second engineer before being integrated with, and installed on, Street View cars. The purpose of this review was to ensure the code did not interfere with normal Street View operations. The code was not further examined to verify what kind of data was actually being obtained through the collection of WiFi publicly broadcast signals.

23. Google admitted that since it was not its intention to collect payload data and it never intended to use payload data in any of its products, it was not in a position to identify any purposes for the collection of these data or seek consent from affected individuals. Google also admitted that it did not inform any affected individuals of the fact that it was collecting payload data since its employees did not realize they were doing so until May 2010.

24. Google provided three reasons to explain why the collection of payload data was not discovered earlier:
    i. No one other than the engineer who developed the code was interested in looking at this program. No one thought payload data would be useful and no one had planned to use this data.
    ii. Payload data comprised a minuscule amount of the total data collected. Its collection was thus of minimal concern and no one had any reason to examine it.
    iii. The engineer had not seen the ramifications of including this code and, consequently, had not spoken of it with his manager.

(b)(5)

25. Google also asserted that since it had no purpose for the collection of payload data, there cannot be any justification for its retention. Consequently, Google is

anticipating its secure destruction as soon as possible and is seeking this Office's authorization to do so.

26. Our investigation revealed that Google collected WiFi data in Canada from March 30, 2009 to May 7, 2010, and that its Street View cars have driven most urban areas and major roads.

(b)(5)

27. Google stated that it cannot accurately distinguish between WiFi networks and wireless devices. It can, however, identify the unique number of basic service set identifiers (a.k.a. BSSIDs), which generally identify a single WiFi access point. Although the BSSID does identify an access point, it does not indicate how many devices or networks connect through the access point.

28. Google estimates that it collected over 6 million BSSIDs over the period its Street View cars drove throughout Canada.

C. Personal information collected

29. Our two technical experts visited Google's offices in Mountain View, California on July 19 and 20, 2010. The purpose of this site visit was for them to examine the data that had been collected by Google's Street View cars for Google's location-based services so as to determine its nature and the quantity involved. Their examination focussed on finding examples of personal information within the WiFi payload data collected in Canada.

30. Our technical experts searched the payload data to find anything that could constitute personal information (e.g., examples of e-mail, usernames, passwords and phone numbers). They produced an approximate count of possible personal information through an automated search. For example, the count included 787 e-mail headers and 678 phone numbers. However, a match does not mean a perfect identification. The searches may have included irrelevant items, or missed some items.

31. To complement the automated search, our experts performed a manual verification for five instances of each type of personal information. This was to demonstrate the existence of each data type, while preventing our experts from intruding too deeply into any individual's personal information.

32. Our technical experts found at least five instances of e-mails where they noted the presence of e-mail addresses, complete e-mail headers, IP addresses, machine hostnames, and contents of messages. The messages were truncated in the five instances of e-mails they found, but when performing a manual verification for other items (e.g., phone numbers), they observed complete e-mail messages.

33. They also found five instances of usernames. These could be seen in cookies, MSN messages and chat sessions. They also found one instance where a password and username were included in an e-mail message that a person was sharing with others to tell them how to log in to a server.

34. Our experts also found at least five instances of real names of individuals, five instances of residential addresses and five more of business addresses. They noted that, unlike the residential addresses, the business addresses were very common.

35. They also found five instances of instant messenger headers and five instances of phone numbers—both business and personal phone numbers. Like business addresses, business phone numbers were easier to find than personal ones.

36. A search for nine-digit or sixteen-digit numbers, which could have been Social Insurance Numbers (SIN) or credit card numbers, did not turn up anything due to there being too many other instances of irrelevant or similar numbers in the dataset. Therefore, although we found no evidence of SIN or credit cards numbers being collected, we still cannot entirely rule out the possibility that they were.

37. Our technical experts also noticed sensitive items during their searches. For example, they found a list of names, phone numbers, addresses and medical conditions for specified individuals. They also found a reference to someone stopped for a speeding violation, along with address information.

38. Our experts often saw cookies being passed from client machines to Web servers. These cookies were unencrypted and some contained personal information,

including IP addresses, user names and postal addresses. They were surprised by the frequency of unencrypted cookies containing personal information.

(b)(5)

39. In summary, our experts found many instances of personal information in the sample they took of the payload data collected in Canada by Google.

D. Segregation and the storage of the payload data

40. The WiFi data was collected through WiFi antennas attached to the roof of Street View cars. This WiFi antenna passively received the publicly broadcast radio signals within range of the car using open-source Kismet software. The data was then relayed to a Google-developed application called "gStumbler" and its executable program "gslite", which processed the data for storage. The data was then saved to hard drives physically located in each Street View car and then subsequently transferred to Google's servers.

41. Google alleges it grounded its Street View cars and segregated the payload data on a restricted area of its network as soon as it became aware that its gStumbler application was collecting payload data from unencrypted WiFi networks.

42. As a follow up step, a Google system administrator copied onto a total of four disks the files containing the payload data collected in all affected countries. This was done from May 9, 2010, to May 13, 2010. These disks contained two copies of the data: one copy obtained after categorizing and labelling the data files by country, and one copy of the data before categorizing.

43. On May 15, 2010, the system administrator consolidated the payload data onto an encrypted hard drive, segregated by country. A second copy of the encrypted hard drive was made for security and backup preservation. The four original disks were then destroyed in a disk deformer.

44. A Google employee personally delivered one encrypted hard drive to another Google location for safekeeping, while the system administrator kept the other one in a secure location. Once the Google employee arrived at the destination, the system administrator permanently destroyed the backup, encrypted hard drive. The US data was then segregated onto a separate encrypted drive, while the data from the rest of the world remained on the initial encrypted drive.

E. Google's future plans for its location-based services

45. Google still intends to offer location-based services, but does not intend to resume collection of WiFi data through its Street View cars. Collection is discontinued and Google has no plans to resume it.

46. Google does not intend to contract out to a third party the collection of WiFi data.

47. Google intends to rely on its users' handsets to collect the information on the location of WiFi networks that it needs for its location-based services database. The improvements in smart-phone technology in the past few years have allowed Google to obtain the data it needs for this purpose from the handsets themselves.

48. Although it has no tracking tool to keep records of a customer's locations (and does not intend to create one), Google acknowledges that it does need to examine the potential privacy concerns of this method of collection.

F. Privacy implications of future plans, and mitigation and prevention measures

49. Google submits that it is striving to design privacy protections into all its products and services. It states that its employees receive orientation and code-of-conduct training that includes a privacy and data-security component. However, the responsibility of aligning Google's projects with its Privacy Principles and Privacy Policy lies with each of its product and engineering teams.

50. Google also states that as products are chartered or otherwise provided with resources and staffing, they are assigned to a Product Counsel in Google's legal department. This individual has a first-level responsibility for identifying privacy

issues in a product.

51. In order to avoid a recurrence of a product design having a negative impact on privacy, Google claimed to be reviewing its product launch procedures, code review procedures and 20% time policy. In so doing, it would ensure that its internal controls are robust enough to adequately address future issues. As of the issue date of this report, Google's review of its procedures/policies has not yet been completed.

Application

52. In making our determinations, we applied Principles 4.1.1 and 4.1.2 of the *Personal Information Protection and Electronic Documents Act*. Principle 4.1.1 stipulates that accountability for the organization's compliance with the principles rests with the designated individual(s), even though other individuals within the organization may be responsible for the day-to-day collection and processing of personal information. In addition, other individuals within the organization may be delegated to act on behalf of the designated individual(s). Principle 4.1.2 continues that the identity of the individual(s) designated by the organization to oversee the organization's compliance with the principles shall be made known upon request.

53. We also applied Principle 4.2, which states that the purpose for which personal information is collected shall be identified by the organization at or before the time the information is collected.

54. Principle 4.3 states that the knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate

55. Lastly, Principle 4.4 states that the collection of personal information shall be limited to that which is necessary for the purposes identified by the organization.

Findings

56. On September 15, 2010, I shared an earlier version of this report with Google and invited their response. Taking into consideration their response, I have revised my preliminary letter of findings. What follows is a summary of our findings and recommendations.

Collection of personal information

57. During their site visit, our technical experts uncovered substantial amounts of personal information in the form of e-mail message content (e.g., e-mail, IP and postal addresses), captured in Google's collection of payload data in Canada.

58. Google acknowledged to this Office that it did collect payload data, but not with the intent of using it in any of its products. According to Google, it was "simply mistaken" in collecting the data and did not seek consent from the affected individuals. Principle 4.3 of the *Act* requires that the knowledge and consent of the individual be obtained for the collection, use or disclosure of their personal information.

59. Google also stated that it had not identified any purposes for the collection of the payload data. Principle 4.2 requires that such a purpose be identified at or before the time of collection. Further, Principle 4.4 stipulates that the collection of personal information be limited to that which is necessary for the purposes identified. Since no purpose could be identified, it follows that the collection in this case clearly could not be limited to any specific purpose. This is in violation of Principle. 4.4.

Google's Product Counsel's involvement

60. Due to the engineer's failure to forward his design document to the Product Counsel, the Counsel was unable to assess the privacy implications of the code designed to collect WiFi data. This is a careless error that I take very seriously

since a review of design documents by a Product Counsel (and the use of a template) is clearly a mandatory step in Google's code design procedure.

61. As a result, the un-scrutinized code was later used to collect data containing personal information. If the Product Counsel had been involved when and as it should have been, Google may have discovered the risk of data over-collection and would have been in a position to remedy the situation before any collection took place. The ensuing negative effects on citizens' privacy and Google's reputation could easily have been avoided.

62. Google informed our Office that engineering and product teams are accountable for complying with Google's privacy policies and principles. Google then stated that it is working towards improving its code-and-product review processes, as well as accountability mechanisms, for engineering and product management personnel in order to improve their sensitivity to privacy issues at all stages of product and code development. A legal team is working with engineering directors to ensure a comprehensive review of codes for any privacy issues. Google believes that the review of its policies and procedures that it has undertaken will ensure no recurrences. Google stated that it will keep this Office informed as Google completes its review.

Code review and testing

63. Google asserted that the engineer who developed the lines of code did not see its ramifications of ultimately allowing the collection of a broader range of data from wireless networks. Our investigation was not able to determine with certainty if this was a one-time error committed by one individual or, perhaps, a sign of a more generalized lack of awareness among employees with regards to privacy implications of new products. At Google, the effects of new products on privacy should be well understood not only by the Product Counsel but also by the professionals who develop these products.

64. In this case, the review and testing of the product containing the code were insufficient to assess privacy impact. It would appear that the review consisted merely of ensuring that the product did not interfere with a second application—that used to collect pictures of the streets navigated by Street View vehicles.

65. As our investigation revealed, the review was not able to assess the extended capabilities of the product—including its ability to collect more information than necessary for the location-based project.

Steps taken to protect payload data

66. Once Google realized its Street View cars were collecting more data from wireless networks than anticipated, Google expressed regret in inadvertently collecting the publicly broadcast data. It immediately grounded its vehicles and took measures to safeguard the collected payload data and segregate it by country of origin.

67. Google's actions were justified, appropriate and sufficient to safeguard the payload data collected in Canada. In my view, Google upheld the related safeguard provisions under the *Act*.

68. Concerning the data that Google collected, it affirmed that it has no desire to use the Canadian payload data in any manner and will continue to secure the data with strenuous access restrictions until it is deleted.

69. To this, I would like to add that not only privacy laws, but other applicable laws in the U.S. and in Canada, including laws of evidence, must also be taken into account in determining when to delete the Canadian payload data collected.

Future plans

70. The fact that Google does not intend to resume collection of WiFi data with its Street View cars eliminates the possibility of further inappropriate collection of personal information through the tool developed by its engineer.

71. However, from users' handsets, Google intends to obtain the information needed to

populate its location-based services database. This alternative method of collection could also lead to inappropriate collection and retention of personal information if Google does not put in place appropriate safeguard measures.

Recommendations

72. I share Google's goal to avoid recurrences of any similar violations of individuals' privacy. While I am pleased that Google has taken under review its processes and procedures that could impact privacy, I would nonetheless like the organization to ensure that these controls are complemented by an overarching governance model embodying all privacy issues pertaining to the design of internal/external products and services. I would also like Google to respect reasonable timelines to implement both the governance model and the revised processes and procedures. With this view, and after reviewing the additional information Google provided this Office, I am making the following recommendations:
    i. That Google re-examine and improve the privacy training it provides all its employees, with the goal of increasing staff awareness and understanding of Google's obligations under privacy laws.
    ii. That Google ensure it has a governance model in place that includes:
        - effective controls to ensure that all necessary procedures to protect privacy have been duly followed prior to the launch of any product;
        - clearly designated and identified individuals actively involved in the process and accountable for compliance with Google's obligations under privacy laws.
    iii. That Google delete the Canadian payload data it collected, to the extent that Google is allowed to do so under Canadian and U.S. laws. If the Canadian payload data cannot immediately be deleted, the data needs to be properly safeguarded and access thereto is to be restricted.
73. At this time, I consider the matter to be **well-founded** and still **unresolved**. My Office will only consider the matter resolved upon receiving either by or before February 1, 2011, confirmation of the implementation of the above recommendations, at which point I will issue my final report and conclusions.

Date Modified: 2010-10-19

Bumpus, Jeanne

From: Bumpus, Jeanne
Sent: Tuesday, October 26, 2010 10:36 AM
To: Vandecar, Kim
Subject: Google blow re: wifi privacy

http://googlepublicpolicy.blogspot.com/2010/10/creating-stronger-privacy-controls.html

Bumpus, Jeanne

From: Bumpus, Jeanne
Sent: Tuesday, October 26, 2010 10:34 AM
To: Slater, Abigail
Subject: RE: Google

Many thanks Gail.

From: Slater, Abigail
Sent: Tuesday, October 26, 2010 9:31 AM
To: Bumpus, Jeanne
Subject: Google

Jeanne, this is another "just in case you've not seen it" email. This time, it's Google's response to the Street View privacy breaches investigated by the House Commerce Committee earlier this year.

http://googlepublicpolicy.blogspot.com/2010/10/creating-stronger-privacy-controls.html

Not Responsive

-----Original Message-----
From: Farrell, Claudia B. [mailto:CFARRELL@ftc.gov]
Sent: Wednesday, October 27, 2010 11:13 AM
To: 'diane.bartz@reuters.com'
Subject: Google closing letter

http://www.ftc.gov/os/closings/101027googleletter.pdf

This email was sent to you by Thomson Reuters, the global news and information company. Any views expressed in this message are those of the individual sender, except where the sender specifically states them to be the views of Thomson Reuters.

Corrigan, Sarah E.

From: Declan McCullagh [declan.mccullagh@cbs.com]
Sent: Wednesday, October 27, 2010 12:04 PM
To: Farrell, Claudia B.
Subject: Re: Commissioner and Commission Staff Public Statements and Letters

Just got it! It looks like it's finally posted.

Thanks, though. :)

-Declan

Farrell, Claudia B. wrote:
> I'll send you the letter, Daclan. Stand by.
>
> -----Original Message-----
> From: Declan McCullagh [mailto:declan.mccullagh@cbs.com]
> Sent: Wednesday, October 27, 2010 11:42 AM
> To: Farrell, Claudia B.
> Subject: Re: Commissioner and Commission Staff Public Statements and Letters
>
> Claudia,
>
> Good morning!
>
> I've heard that David Vladeck sent a letter to Google outside counsel Al
> Gidari on Street View, saying that because Google has "recently
> announced improvements" to it privacy practices, the FTC is "ending our
> inquiry into this matter at this time."
>
> I haven't seen the letter posted on FTC.gov -- can you confirm?
>
> Thanks,
> Declan
> (b)(6)
>
>
>

Corrigan, Sarah E.

From: Cecilia Kang [KangC@washpost.com]
Sent: Wednesday, October 27, 2010 11:32 AM
To: Farrell, Claudia B.
Subject: Re: Google

thank you.

Cecilia Kang
Technology Reporter
The Washington Post
202.334.4367 (o)
(b)(6)
http://voices.washingtonpost.com/posttech
www.twitter.com/ceciliakang

Corrigan, Sarah E.

From: Rugaber, Chris [CRugaber@ap.org]
Sent: Wednesday, October 27, 2010 2:36 PM
To: Farrell, Claudia B.
Subject: RE: Google closing letter

Hey -- You can always send stuff to me, I can get it to the right folks; FYI, apparently one of our tech people is working on it now.

But the best people for technology and privacy issues are: Joelle Tessler, or jtessler@ap.org, and Nick Jesdanun, njesdanun@ap.org -- he is an editor and can route things if Joelle, who is based here, is out (as she is today).

Thanks for sending.

Chris

Chris Rugaber
Economics Reporter
Associated Press
P: (202) 641-9851
Mobile: (b)(6)

-----Original Message-----
From: Farrell, Claudia B. [mailto:CFARRELL@ftc.gov]
Sent: Wednesday, October 27, 2010 2:35 PM
To: Rugaber, Chris
Subject: RE: Google closing letter

I sent it to the wires, the Post, Times and WSJ. If not you, Chris, who should I be working with on privacy and tech issues?

-----Original Message-----
From: Rugaber, Chris [mailto:CRugaber@ap.org]
Sent: Wednesday, October 27, 2010 2:32 PM
To: Farrell, Claudia B.
Subject: RE: Google closing letter

Thanks, just took a closer look, will get this to some of our tech people. Has this been widely distributed?

Chris Rugaber
Economics Reporter
Associated Press
P: (202) 641-9851
Mobile: (b)(6)

-----Original Message-----
From: Farrell, Claudia B. [mailto:CFARRELL@ftc.gov]
Sent: Wednesday, October 27, 2010 11:14 AM
To: Rugaber, Chris
Subject: Google closing letter

http://www.ftc.gov/os/closings/101027googleletter.pdf

The information contained in this communication is intended for the use

of the designated recipients named above. If the reader of this
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and delete this e-mail. Thank you.
[IP_US_DISC]
msk dccc60c6d2c3a6438f0cf467d9a4938

Corrigan, Sarah E.

From: SARA FORDEN, BLOOMBERG/ NEWSROOM: [sforden@bloomberg.net]
Sent: Wednesday, October 27, 2010 1:57 PM
To: Farrell, Claudia B.
Subject: Fwd:Google closing letter

--- Original Sender: JEFF BLISS, BLOOMBERG/ NEWSROOM: ---

hi claudia,
could you please add me to your list for such notifications in the future? as jeff and i are backing each other up and need to be on the same page in case one of us is out.
much appreciated, thanks.
sara

----- Original Message -----
From: JEFF BLISS (BLOOMBERG/ NEWSROOM:)
To: SARA FORDEN (BLOOMBERG/ NEWSROOM:)
At: 10/27 13:53:34

----- Original Message -----
From: Claudia B. Farrell <CFARRELL@ftc.gov>
To: JEFF BLISS (BLOOMBERG/ NEWSROOM:)
At: 10/27 11:16:34

http://www.ftc.gov/os/closings/101027googleletter.pdf

Corrigan, Sarah E.

From: Tanzina Vega (b)(6)
Sent: Wednesday, October 27, 2010 11:45 AM
To: Farrell, Claudia B.
Cc: tanzina@nytimes.com
Subject: Re: Google closing letter

Thank you for sending. It was nice to meet you in person.

On Wed, Oct 27, 2010 at 11:14 AM, Farrell, Claudia B. <CFARRELL@ftc.gov> wrote:
> http://www.ftc.gov/os/closings/101027googleletter.pdf

--
Tanzina I. Vega
Reporter
The New York Times
212-556-1306
tanzina@nytimes.com
@tanzinavega

Corrigan, Sarah E.

From: Cecilia Kang [KangC@washpost.com]
Sent: Wednesday, October 27, 2010 11:32 AM
To: Farrell, Claudia B.
Subject: Re: Google closing letter

are you investigating Street View episode?

Cecilia Kang
Technology Reporter
The Washington Post
202.334.4367 (o)
(b)(6)
http://voices.washingtonpost.com/posttech
www.twitter.com/ceciliakang

Corrigan, Sarah E.

From: Prewett, Cecelia
Sent: Wednesday, October 27, 2010 10:54 AM
To: 'Cecilia Kang'
Cc: Farrell, Claudia B.
Subject: RE: Meeting with FTC's Bureau of Consumer Protection

Claudia will call you shortly. We'll find someone for you. Is this an expansion to your blog post this morning?

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
desk 202.326.3220; cell 202.758.7598
http://www.ftc.gov
http://www.facebook.com/federaltradecommission

From: Cecilia Kang [mailto:KangC@washpost.com]
Sent: Wednesday, October 27, 2010 10:37 AM
To: Prewett, Cecelia
Subject: RE: Meeting with FTC's Bureau of Consumer Protection

hi there! i'm writing a privacy story for tomoro's paper and wonder if i can get some time with jessica or the chairman?

basically, it looks like european regulators have been responsive to google street view and other privacy concerns but privacy advocates say its unclear where the u.s. stands.

Cecilia Kang
Technology Reporter
The Washington Post
202.334.4367 (o)
(b)(6)
http://voices.washingtonpost.com/posttech
www.twitter.com/ceciliakang

Corrigan, Sarah E.

From: Rich, Jessica L.
Sent: Wednesday, October 27, 2010 7:40 PM
To: Farrell, Claudia B.
Subject: Re: Post Tech - FTC drops inquiry into Google Street View flap

Perhaps - or maybe she didn't find it newsworthy. We'll see.
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Farrell, Claudia B.
To: Rich, Jessica L.
Sent: Wed Oct 27 19:37:54 2010
Subject: Re: Post Tech - FTC drops inquiry into Google Street View flap

Well she wrote it like she never talked to you. Maybe she's saving you for tomorrows paper.

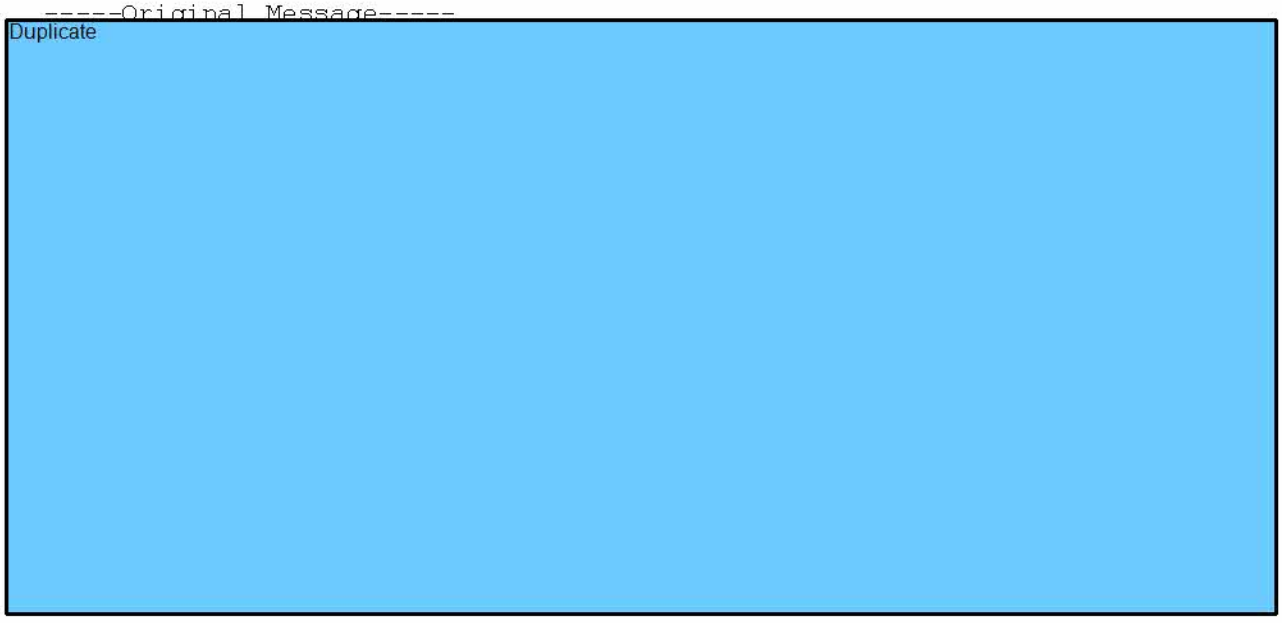
----- Original Message -----
From: Rich, Jessica L.
To: Farrell, Claudia B.
Sent: Wed Oct 27 18:06:04 2010
Subject: Re: Post Tech - FTC drops inquiry into Google Street View flap

What do you mean?
Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

----- Original Message -----
From: Farrell, Claudia B.
To: Rich, Jessica L.
Sent: Wed Oct 27 18:02:22 2010
Subject: RE: Post Tech - FTC drops inquiry into Google Street View flap

It's not bad at all. But what was your conversation about?

-----Original Message-----



Corrigan, Sarah E.

From: JEFF BLISS, BLOOMBERG/ NEWSROOM: [jbliss@bloomberg.net]
Sent: Wednesday, October 27, 2010 1:55 PM
To: Farrell, Claudia B.
Subject: Re:Google closing letter

Claudia, Thanks again for this. Jeff

----- Original Message -----
From: Claudia B. Farrell <CFARRELL@ftc.gov>
To: JEFF BLISS (BLOOMBERG/ NEWSROOM:)
At: 10/27 11:16:34

http://www.ftc.gov/os/closings/101027googleletter.pdf

Not Responsive

From: Farrell, Claudia B.
To: Prewett, Cecelia
Cc: Mithal, Maneesha; Clark, Donald S.; Frankle, Janice Podoll
Sent: Tue Oct 26 18:06:03 2010
Subject: 2 things

Maneesha is going to ask Don to post the letter at 9 AM and send us a hyperlink. She said that David plans to discuss this in Jerusalem, so he might break the news for us. Google's attorneys got the letter tonight, so they might e-mail their contingent in Jerusalem, and they might break the news by declaring that they have been vindicated by the FTC. (b)(5)

Not Responsive

Corrigan, Sarah E.

From: Prewett, Cecelia
Sent: Monday, October 25, 2010 11:17 AM
To: Farrell, Claudia B.
Subject: RE: Google wi-fi - heads up for Monday

What's your plan for releasing the letter?

Cecelia J. Prewett
Director, Office of Public Affairs
Federal Trade Commission
600 Pennsylvania Avenue, NW #421
Washington, DC 20580
202.326.3220 desk
202.758.7598 cell & berry
http://www.ftc.gov
http://www.facebook.com/federaltradecommission

From: Farrell, Claudia B.
Sent: Monday, October 25, 2010 10:48 AM
To: Rich, Jessica L.; Mithal, Maneesha; Matties, Deborah J.; DeLorme, Christine L.; Prewett, Cecelia; Harrison, Lisa M.; Sannappa, Nithan; Vandecar, Kim
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark; Weinman, Yael
Subject: RE: Google wi-fi - heads up for Monday

(b)(5)

From: Rich, Jessica L.
Sent: Sunday, October 24, 2010 8:34 AM
To: Mithal, Maneesha; Matties, Deborah J.; DeLorme, Christine L.; Prewett, Cecelia; Farrell, Claudia B.; Harrison, Lisa M.; Sannappa, Nithan; Vandecar, Kim
Cc: Ratte, Kathryn D.; Brin, Katherine Race; Eichorn, Mark; Glassman, Mark; Weinman, Yael
Subject: Re: Google wi-fi - heads up for Monday

(b)(5)

Jessica Rich
Deputy Director
Bureau of Consumer Protection
Federal Trade Commission
202-326-2148

Corrigan, Sarah E.

From: Kaplan, Peter P.
Sent: Tuesday, October 26, 2010 5:28 PM
To: Farrell, Claudia B.
Subject: FW: Lots of press tomorrow!

Google WiFi?

Duplicate

Magee, Peder

From: Ratte, Kathryn D.
Sent: Wednesday, October 27, 2010 2:34 PM
To: Magee, Peder
Subject: RE: are you guys

Not Responsive

JC is all hot over Google WiFi. Huzzah.

Not Responsive

Magee, Peder

From: Ratte, Kathryn D.
Sent: Friday, October 08, 2010 3:21 PM
To: Mithal, Maneesha; Olsen, Christopher; Magee, Peder

Not Responsive

6. On page 40, there's a placeholder for the Street View / WiFi letter. That won't be done in time, so if OGC has concerns about that, we need to remove that bullet.

Not Responsive

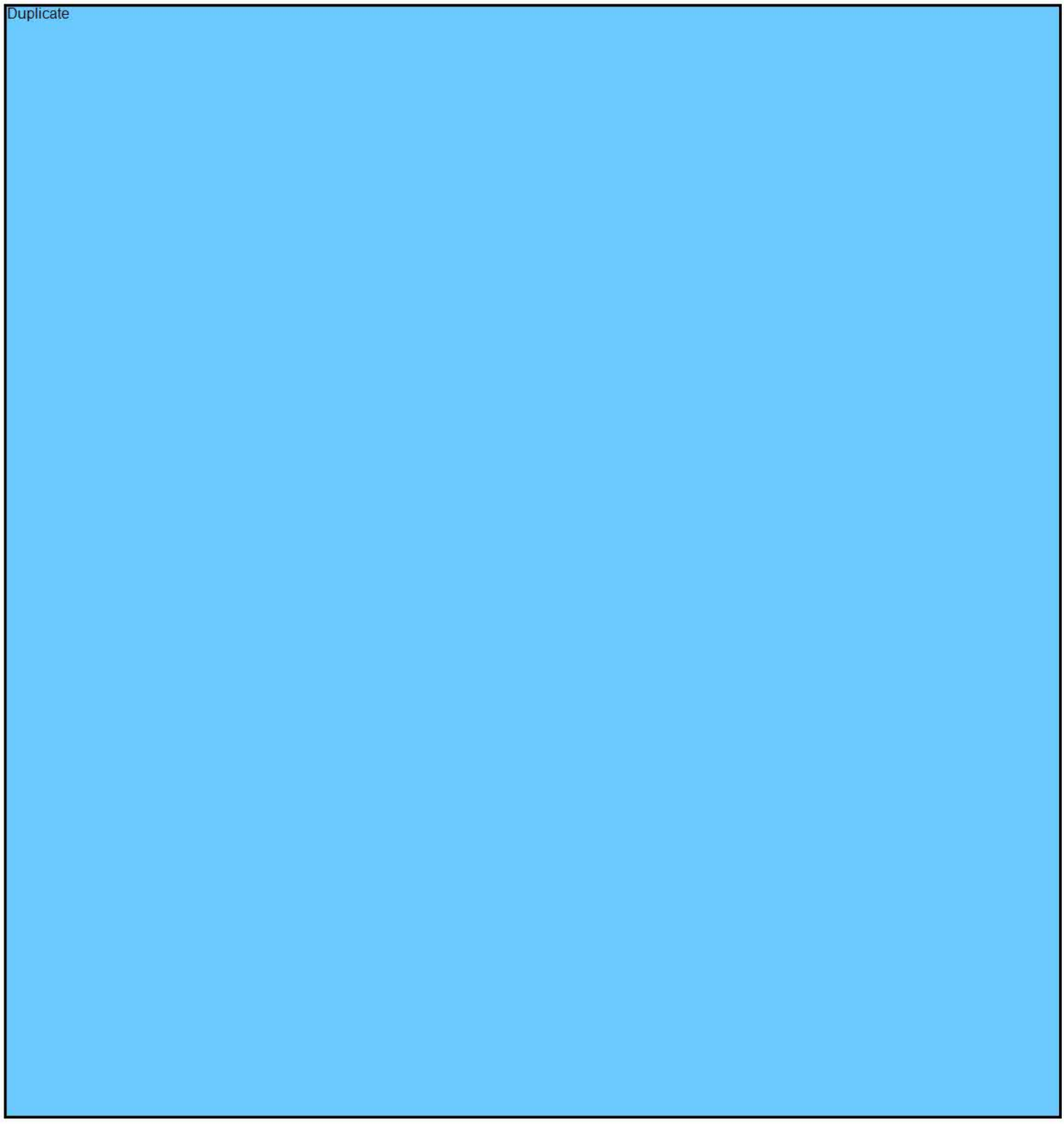
Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 11:03 AM
To: Dawson, Rachel Miller
Subject: FW: Google wi-fi - heads up for Monday
Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 10:59 AM
To: Dawson, Rachel Miller
Subject: FW: Google wi-fi - heads up for Monday

FYI



Corrigan, Sarah E.

From: Harrison, Lisa M.
Sent: Monday, October 25, 2010 10:35 AM
To: Dawson, Rachel Miller
Subject: FW: Google wi-fi - heads up for Monday
Attachments: Vladeck Google WiFi letter 10 23 10 Final mm kdr edits.wpd

FYI. This letter looks fine for me. (b)(5) (b)(5) If you have any comments, please send them right away as Maneesha has asked for comments this morning.

Duplicate

Former Prosecutor: Google Wi-Fi Snafu 'Likely' Illegal

By David Kravets ✉ June 8, 2010 | 5:04 pm | Categories: Breaches, privacy

Google "likely" breached a U.S. federal criminal statute in connection with its accidental Wi-Fi sniffing — but not for siphoning private data from internet surfers using unsecured networks, a former federal prosecutor said Tuesday.

Ironically, says former prosecutor Paul Ohm, it's likely Google did not violate wiretap regulations, but instead might have breached the Pen Register and Trap and Traces Device Act for intercepting the metadata and address information alongside the content.

"I think it's likely they committed a criminal misdemeanor of the Pen Register and Trap and Traces Device Act," said Ohm, a prosecutor from 2001 to 2005 in the Justice Department's Computer Crime

and Intellectual Property Section. "For every packet they intercepted, not only did they get the content, they also have your IP address and destination IP address that they intercepted. The e-mail message from you to somebody else, the 'to' and 'from' line is also intercepted."

"This is a huge irony, that this might come down to the non-content they acquired," (.pdf) said Ohm, a professor at the University of Colorado School of Law.

Google said it was a coding error that led it to sniff as much as 600 gigabytes of data across dozens of countries as it was snapping photos for its Street View project. The data likely included webpages users visited and pieces of e-mail, video and document files.

While several countries have said they have opened inquiries, the U.S. Federal Trade Commission Chairman Jon Leibowitz told Congress: "We're going to take a very, very close look at this." Attorneys general in Missouri and Connecticut are also probing the matter. The Justice Department declined to comment.

The pen register act described by Ohm, which he said is rarely prosecuted, is usually thought of in terms of preventing unauthorized monitoring of outbound and inbound telephone numbers.

Violations are a misdemeanor and cannot be prosecuted by private lawyers in civil court, Ohm said. He said the act requires that Google "knew, or should have known" of the activity in question.

Google denies any wrongdoing.

"As we said before, this was a mistake," Google spokeswoman Christine Chen said. "But we believe we did nothing illegal. We're continuing to work with the relevant authorities to answer their questions and concerns."

Ohm and other privacy scholars suggest that loopholes would make it difficult for the government to bring a wiretapping case. Wiretap Act violations are felonies, and the act can be invoked in civil court.

As far as a criminal court goes, it is not considered wiretapping "to intercept or access an electronic communication made through an electronic communication system that is configured to that such electronic communication is readily accessible to the general public."

It is not known how many non-password-protected Wi-Fi networks there are in the United States.

"If this isn't illegal to do this, then it could be OK for the government," said Kevin Bankston, an Electronic Frontier Foundation attorney.

The U.S. courts have not clearly addressed the issue involved in the Google flap.

The closest court ruling was in January, when an Oregon federal judge ruled evidence of child pornography found on a local man's computer through his open Wi-Fi network could be used against

him in court, absent a warrant. In arguing to uphold the warrantless computer search, the government argued privacy interests were nullified with unsecured Wi-Fi networks.

"Defendant's unsecured wireless access point was open to anyone with a wireless modem, whether or not they were law enforcement," (.pdf) the government argued. "Because defendant made no effort to keep or maintain his computer network private but maintained an access point open to all, no search occurred."

U.S. District Judge Garr King agreed. (.pdf) The defendant, John Ahrndt, is expected to plead guilty to child pornography charges next week.

Street View is part of Google Maps and Google Earth, and provides panoramic pictures of streets and their surroundings across the globe.

The internet giant has maintained the collection of data while taking photos for Street View was inadvertent -- the result of a programming error with code written for an early experimental project that wound up on the Street View code. Google said it didn't realize it was sniffing packets of data on unsecured Wi-Fi networks in dozens of countries for the last three years, until German privacy authorities questioned what data Google's Street View cameras were collecting.

Google is also facing at least three civil lawsuits across the United States. Another one is expected to be lodged in California in the coming days, according to Scott Kamber, a leading privacy attorney who just settled a case with Facebook.

He said the government rarely prosecutes privacy flaps.

"I can't think of any cases we brought in which there was a parallel criminal action," Kamber said.

In March, a California federal judge approved a $9.5 million settlement challenging Facebook's "Beacon" program that monitored and published what users of the social networking site were buying or renting from Blockbuster, Overstock and other locations.

"The federal government," Kamber said, "did not fine Facebook for those activities, civilly or criminally."

Photo: Byrion/Flickr

See Also:

- Lawyers Claim Google Wi-Fi Sniffing 'Is Not an Accident'
- Lawsuits Pour in Over Google's Wi-Fi Data Collection
- Google Turns on Gmail Encryption to Protect Wi-Fi Users
- Google Street View Cars Collected Private Content From Wi-Fi
- Wi-Fi Sniffing
- Google Launches Encrypted Search

Tags: google, Kevin Bankston, Paul Ohm, street view, Wi-Fi debacle, Wi-Fi sniffing
Post Comment | Permalink

Comments (16)

Posted by: huxley | 06/8/10 | 9:31 pm |

What are the options?
Supervised destruction?
A fine?
Due dilagence on the wifi code? Who did the review and passed it as legal in a jurisdiction?
State Secrets Privilege as to not have any telco papers out in discovery. No more Room 641A's via some obscure network diagram.

Posted by: vdev | 06/8/10 | 9:33 pm |

Hey, wired dudes.

Are you sponsoring hanongcha and his ads? They're near the top of every page and they're clearly against your Terms of Service IV part C.

So clean them out. Leaving them up just encourages more

Posted by: roquemocan | 06/9/10 | 1:49 am |

OK, I would think that for Street View you have two data feeds: the pictures themselves and GPS information – maybe time of day, etc. What was the snooping of Wi-Fi doing in this, and how could this be just a "mistake" and that they didn't know? This additional data would have needed to have wi-fi antennas on the cars, and the antennas would be turned on, and it would have been chewing additional hard disk space – so that Google saying they didn't know this was happening at all seems suspicious. I think they wanted to correlate Wi-Fi IDs with geographical location for positioning purposes – when a device, for example an Android phone – detected a Wi-Fi ID, it could go to a database that gave it the geographical location.

Posted by: Transmeta | 06/9/10 | 2:55 am |

This whole thing is stupid, on everyones part. Google is at fault for not noticing the extra data 'they had no idea they were collecting'. Open access point admins are at fault for not encrypting their data streams. I think this is one case where two wrongs do make a right...

Posted by: delahaya | 06/9/10 | 2:59 am |

Are we really seriously supposed to believe Google did not realize they were capturing this extra data? Also, when exactly did they realize they were doing so, and did they stop right then, or keep on?

Posted by: Q5800 | 06/9/10 | 5:30 am |

IPhone is a revolutionary and new mobile phone, the user can simply point the name or number, and

then you can make the call. iphone on sale , the Best Accompaniments for Sweet This Year IPhone is able to keep pace with from all contact information from PC, Mac ® or internet service providers (such Yahoo!), let you always have complete and latest contact information list. In addition, you can also set up a telephone list that you like of the most frequently dialed phone numbers and put them all together to have a telephone conference.
M001 7 inch Touch Screen TFT LCD Google Android 1.6 Tablet PC w/ WiFi (VIA MW8505/600MHz)

EKEN M003 8 Inch Touch Screen TFT LCD Google Android Wi-Fi Tablet PC (PREVIEW ONLY)
iphone deals

Posted by: huxley | 06/9/10 | 8:41 am |

Why are Open access point admins are at fault of anything? Its a service they offer and a network is formed between their network and an end user. Google seems to have jumped in and captured data on that network.
It then kept the data and stonewalled in parts of the world.
Thats why most parts of the world have privacy and data protection laws.
Its also nice to have a legal system that protects everybody, not just stepping in for the encryption aware.

Posted by: sam | 06/9/10 | 10:05 am |

this is akin to putting a big sign up in your window and trying to sue someone when they read it. if you don't want your shit snooped, encrypt it!

Posted by: dcx_2 | 06/9/10 | 12:35 pm |

FYI, roquemocan, that is exactly what they were doing – correlating SSIDs/MACs with GPS coordinates, for use with Assisted-GPS (AGPS). Google is not alone; another company named Skyhook does the same thing.

I can fully believe that they didn't see the "extra data". When you have a hard drive that's a terabyte, and you're war-driving for SSIDs/MACs for hours on end, you won't notice the difference between a 1 GB file and even a 10 GB file. The log files were probably being further processed by another program that was doing the SSID/MACGPS correlation, which would ignore the data payload anyway.

Remember, they were channel hopping 5 times a second, so at most they get a few small, disparate pieces from a larger communication. The van was also moving. Without context, they might not know if it's a picture or a Word document or an email.

If someone was driving down the road with a camcorder pointed out their window, and you were standing in your living room with the blinds open, would you scream privacy violation as they briefly captured your image while driving past?

Posted by: chrasling | 06/9/10 | 1:34 pm |

I'm going to agree with 'dcx_2' on this one.

Posted by: SpeedRacer | 06/9/10 | 2:07 pm |

Posted by: sam | 06/9/10 | 10:05 am |
this is akin to putting a big sign up in your window and trying to sue someone when they read it. if you don't want your shit snooped, encrypt it!

Yeah, if that sign were receipts and personal statements on your desk and the person looking was using electronic, infrared binoculars to see through your walls.

Actually, it's more akin to the police not arresting a burglar because the front door was left open. It's still trespassing and stealing, even if it is easy.

Posted by: Ceribus | 06/9/10 | 3:01 pm |

Actually Speedracer this would be more like tapping your recipts and personal documents to your window and someone catching it on video as they drove by but not using it for anything.

Posted by: Ceribus | 06/9/10 | 3:04 pm |

Also people seem to be confusing what data they "collected" they weren't snooping through you computer or anything they caught traffic that was being transmitted as they passed by..... that as much snooping as someone stand near you at the park and overhearing your shouted conversation your having with a friend

---

Posted by: dcx_2 | 06/9/10 | 5:11 pm |

lol @ speedracer...using infrared binoculars to read a receipt.

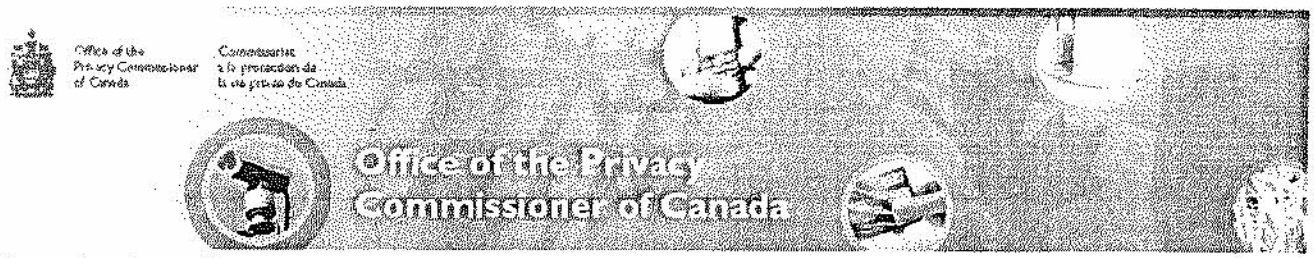
I think this analogy fails spectacularly. If you need infrared binoculars in order to see something, then the individual you are spying on is at least making an attempt to keep it hidden from the public view, and therefore deserves privacy even if the attempt to maintain privacy is easily circumvented. An unsecured wifi router makes no attempt to hide its contents from the public and therefore does not deserve privacy. A judge in Oregon agrees.

Posted by: SpeedRacer | 06/9/10 | 6:03 pm |

Analogies aside, what fails is people telling you electronic eavesdropping of your home or business to acquire personal information is not a crime.

Posted by: catchersmitt0 | 06/10/10 | 8:13 am |

Google's original mistake was to drop the "N" from its founding philosophy of "Never Be Evil." As soon as Google bought into the American corporate-profit ethic, they became just another evil company however pervasive. (See also: The Selling of Mark Zuckerberg.)



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News

News Release

Google contravened Canadian privacy law, investigation finds

Google Street View cars inappropriately collected personal information such as e-mails, usernames, passwords, phone numbers and addresses; Commissioner recommends stronger controls and improved privacy training.

OTTAWA, October 19, 2010 – Google Inc. contravened Canadian privacy law when it inappropriately collected personal information from unsecured wireless networks in neighbourhoods across the country, an investigation has found.

The Privacy Commissioner's investigation also concluded that the incident was the result of an engineer's careless error as well as a lack of controls to ensure that necessary procedures to protect privacy were followed.

"Our investigation shows that Google did capture personal information – and, in some cases, highly sensitive personal information such as complete e-mails. This incident was a serious violation of Canadians' privacy rights," says Privacy Commissioner Jennifer Stoddart.

"The impact of new and rapidly evolving technologies on modern life is undeniably exciting. However, the consequences for people can be grave if the potential privacy implications aren't properly considered at the development stage of these new technologies."

The personal information collected included complete e-mails, e-mail addresses, usernames and passwords, names and residential telephone numbers and addresses. Some of the captured information was very sensitive, such as a list that provided the names of people suffering from certain medical conditions, along with their telephone numbers and addresses.

(b)(5)

It is likely that thousands of Canadians were affected by the incident.

Technical experts from the Office of the Privacy Commissioner travelled to the company's offices in Mountain View, Calif. in order to perform an on-site examination of the data that was collected. They conducted an automated search for data that appeared to constitute personal information.

To protect privacy, the experts manually examined only a small sample of data flagged by the automated search. Therefore, it's not possible to say how much personal information was collected from unencrypted wireless networks.

The Privacy Commissioner launched an investigation under the federal private-sector privacy law, the *Personal Information Protection and Electronic Documents Act*, or PIPEDA, after Google revealed that its cars – which were photographing neighbourhoods for its Street View map service – had inadvertently collected data transmitted over wireless networks installed in homes and businesses across Canada and around the world over a period of several years. The networks were not password protected or encrypted.

Google collected the personal information because of a particular code integrated into the software used to collect WiFi signals. The code was developed in 2006 by a Google engineer who was taking advantage of Google's policy of allowing its engineers to use 20 per cent of their time to work on projects of interest to them. He developed the code to sample all categories of publicly broadcast WiFi data and included lines that allowed for the collection of "payload data," which refers to the content of the communications.

The code wound up being used in the Google Street View cars when the company decided to collect information about location of publicly broadcast WiFi radio signals in order to feed this information into its location-based services database.

When the decision to use the code was taken, the engineer who created it did identify "superficial privacy implications." Those implications were never assessed by other Google officials because the engineer failed to forward his code design documents to the Google lawyer responsible for reviewing the legal implications of the WiFi project– contrary to company policy.

Google asserts that it was completely unaware of the presence of the payload data collection code when it began using the software for its location-based services. While the code was reviewed before being installed on Street View cars, the review was only to ensure that the code did not interfere with the Street View operations.

"This incident was the result of a careless error – one that could easily have been avoided," says Commissioner Stoddart.

In light of her investigation, the Privacy Commissioner recommended that Google ensure it has a governance model in place to comply with privacy laws. The model should include controls to ensure that necessary procedures to protect privacy are duly followed before products are launched.

The Commissioner has also recommended that Google enhance privacy training to foster compliance amongst all employees. As well, she called on Google to designate an individual or individuals responsible for privacy issues and for complying with the organization's privacy obligations – a requirement under Canadian privacy law.

She also recommended that Google delete the Canadian payload data it collected, to the extent that the company does not have any outstanding obligations under Canadian and American laws preventing it from doing so, such as preserving evidence related to legal proceedings. If the Canadian payload data cannot immediately be deleted, it needs to be secured and access to it must be restricted.

The Privacy Commissioner will consider the matter resolved upon receiving, by

February 1, 2011, confirmation from Google that it has implemented her recommendations.

The Privacy Commissioner of Canada is mandated by Parliament to act as an ombudsman, advocate and guardian of privacy and the protection of personal information rights of Canadians.

— 30 —

For more information (media only), please contact:

Office of the Privacy Commissioner of Canada
Anne-Marie Hayden
Tel: (613) 995-0103
E-mail: Anne-Marie.Hayden@priv.gc.ca

NOTE: Journalists are asked to please send any interview requests via e-mail.

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News

Preliminary Letter of Findings

Complaints under the *Personal Information Protection and Electronic Documents Act* (the *Act*)

1. The Office of the Privacy Commissioner of Canada initiated three complaints against Google Inc. (Google) on May 31, 2010, pursuant to subsection 11(2) of the *Act*, after being made aware that Google Street View cars had been collecting payload data from unencrypted WiFi networks during their collection of publicly broadcast WiFi signals (service set identifiers [SSID] information and Media Access Control ("MAC") addresses.

2. The three complaints are as follows:
   i. Google's collection, use or disclosure of payload data was done without the individual's prior knowledge and consent;
   ii. Google's collection of payload data was done without prior identification of the purposes for which personal information (PI) was collected;
   iii. Google's collection of payload data was not limited to that which was necessary for the purposes identified.

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Summary of Investigation

3. Following a request from the German data protection authority in Hamburg to audit the WiFi data collected by Google's Street View cars during a location-based project, Google discovered in May 2010 that it had been collecting payload data from unsecured wireless networks as part of its collection of WiFi data. By Google's own admission, it appears that this inadvertent collection was due to the integration of the code developed in 2006 with the software used to collect WiFi signals. As a result, Google grounded its Street View cars, stopped the collection of WiFi network data on May 7, 2010, and segregated and stored all of the data already collected.

4. On June 1, 2010, our Office sent a letter to Google stating that she was launching an investigation with regard to its collection of payload data. Google responded on June 29, 2010.

5. On June 28, 2010, pursuant to subsection 11(2) of the *Act*, this Office requested to

undertake a site visit to Google's facility in Mountain View, California. The purpose of this site visit was twofold: 1) to allow the review of the payload data gathered by Google, and 2) to ask specific questions of Google's representatives, such as the circumstances surrounding this incident, the segregation and storage of the payload data, and the mitigation and prevention measures Google intended to implement.

6. Google agreed to a site visit. Two technical representatives from this Office then went to the Mountain View facility on July 19, 2010. Although our technicians reviewed the payload data, no Google representatives were available in Mountain View to answer our questions. Instead, by letter dated July 16, 2010, Google answered general questions we posed in a questionnaire we sent on July 12, 2010.

7. On August 18, 2010, a videoconference was held between Google's counsel and this Office in order to answer supplementary questions.

8. The results of our investigation into the three complaints against Google are summarized below in the following sections:
   A. Google's Product Counsel's involvement in product review;
   B. Circumstances surrounding the collection of payload data and technical testing;
   C. Personal information collected;
   D. Segregation and storage of the payload data;
   E. Google's future plans for its location-based services; and
   F. Privacy implications of future plans, and mitigation and prevention measures that Google intends to implement to prevent a recurrence.

A. Google's Product Counsel's involvement in product review

9. Google advised that it has a formal review process for each external product launch. ("External product" denotes a product to be offered to consumers.) This process requires that a Product Counsel assess, among other things, the privacy implications of the product.

10. Since the code ultimately used to sample all categories of publicly broadcast WiFi data is not considered by Google to be an external product, the formal review process did not apply.

11. However, our investigation learned that Google's code design procedure includes a template and process by which the code must be reviewed by Product Counsel before being used or integrated with another Google product. The template—a methodology document—is in fact mandatory and is the first step in the code design procedure.

12. Our investigation also learned that in the code design-procedure document for the particular code later to be used for the collection of WiFi signals, the engineer did identify one or more privacy concerns about the information collection. These relate to the fact that Google could obtain sufficient data to precisely triangulate a user's position at a given time.

13. The engineer qualified his concerns as being "superficial privacy implications". He did not forward his code design documents to Product Counsel for review—contrary to company procedure. Thus, the code's privacy implications were never assessed.

14. We were also informed that Google's Product Counsel Members consist of practising lawyers with various legal backgrounds. Google claims that they usually have some private-sector experience in privacy issues.

15. According to Google, Product Counsel Members attend the same introductory training session available to all new Google employees. As well, Product Counsel Members participate in weekly privacy- and security-issue meetings. Google also claims that "Privacy is part of the ongoing CLE [Continuing Legal Education] obligations of Google counsel."

B. Circumstances surrounding the collection of payload data and

technical testing

16. Google allows its engineers to use 20% of their time to work on projects of interest to them. When using this time in 2006, a Google engineer developed code to sample all categories of publicly broadcast WiFi data.

17. The engineer involved included lines to the code that allowed for the collection of payload data. He thought it might be useful to Google in the future and that this type of collection would be appropriate.

18. This code was later used by Google when it decided to launch a particular location-based service. The service relies on a variety of signals (such as GPS, the location of cell towers and the location of WiFi access points) to provide the user with a location. Google installed antennas and appropriate software (including Kismet, an open-source application) on its Google Street View cars in order to collect publicly broadcast WiFi radio signals within the range of the cars while they travelled through an area. These signals are then processed to identify the WiFi networks (using their MAC address) and to map their approximate location (using the GPS co-ordinates of the car when the signal was received). This information on the identity of WiFi networks and their approximate location then populates the Google location-based services database.

19. In its representations to this Office, Google provided technical information on how it uses WiFi network data for location-based services. Google stated that its software does not store payload transmissions from encrypted networks, but that payload data sent over *unencrypted* WiFi networks is collected and "dumped" on a disk in raw format.

20. However, according to Google, the information thus collected would be fragmented because its cars are on the move when collection occurs and the equipment it uses to collect WiFi signals automatically changes channels five times per second.

21. To our investigation, Google acknowledged that it erred in including in the WiFi-network information-collecting software any code allowing the collection of payload data. Google contends that the code was primarily designed for data-collection software and that this purpose preceded its ultimate application in the collection of WiFi network information for location-based services. Google claims that it did not realize the presence of this code when it began using the software for its geo-location project.

22. It claims that when the decision was made to use the software for collecting publicly broadcast WiFi information, the code was reviewed for bugs and validated by a second engineer before being integrated with, and installed on, Street View cars. The purpose of this review was to ensure the code did not interfere with normal Street View operations. The code was not further examined to verify what kind of data was actually being obtained through the collection of WiFi publicly broadcast signals.

23. Google admitted that since it was not its intention to collect payload data and it never intended to use payload data in any of its products, it was not in a position to identify any purposes for the collection of these data or seek consent from affected individuals. Google also admitted that it did not inform any affected individuals of the fact that it was collecting payload data since its employees did not realize they were doing so until May 2010.

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24. Google provided three reasons to explain why the collection of payload data was not discovered earlier:
    i. No one other than the engineer who developed the code was interested in looking at this program. No one thought payload data would be useful and no one had planned to use this data.
    ii. Payload data comprised a minuscule amount of the total data collected. Its collection was thus of minimal concern and no one had any reason to examine it.
    iii. The engineer had not seen the ramifications of including this code and, consequently, had not spoken of it with his manager.

25. Google also asserted that since it had no purpose for the collection of payload data, there cannot be any justification for its retention. Consequently, Google is

anticipating its secure destruction as soon as possible and is seeking this Office's authorization to do so.

26. Our investigation revealed that Google collected WiFi data in Canada from March 30, 2009 to May 7, 2010, and that its Street View cars have driven most urban areas and major roads.

27. Google stated that it cannot accurately distinguish between WiFi networks and wireless devices. It can, however, identify the unique number of basic service set identifiers (a.k.a. BSSIDs), which generally identify a single WiFi access point. Although the BSSID does identify an access point, it does not indicate how many devices or networks connect through the access point.

28. Google estimates that it collected over 6 million BSSIDs over the period its Street View cars drove throughout Canada.

C. Personal information collected

29. Our two technical experts visited Google's offices in Mountain View, California on July 19 and 20, 2010. The purpose of this site visit was for them to examine the data that had been collected by Google's Street View cars for Google's location-based services so as to determine its nature and the quantity involved. Their examination focussed on finding examples of personal information within the WiFi payload data collected in Canada.

30. Our technical experts searched the payload data to find anything that could constitute personal information (e.g., examples of e-mail, usernames, passwords and phone numbers). They produced an approximate count of possible personal information through an automated search. For example, the count included 787 e-mail headers and 678 phone numbers. However, a match does not mean a perfect identification. The searches may have included irrelevant items, or missed some items.

31. To complement the automated search, our experts performed a manual verification for five instances of each type of personal information. This was to demonstrate the existence of each data type, while preventing our experts from intruding too deeply into any individual's personal information.

32. Our technical experts found at least five instances of e-mails where they noted the presence of e-mail addresses, complete e-mail headers, IP addresses, machine hostnames, and contents of messages. The messages were truncated in the five instances of e-mails they found, but when performing a manual verification for other items (e.g., phone numbers), they observed complete e-mail messages.

33. They also found five instances of usernames. These could be seen in cookies, MSN messages and chat sessions. They also found one instance where a password and username were included in an e-mail message that a person was sharing with others to tell them how to log in to a server.

34. Our experts also found at least five instances of real names of individuals, five instances of residential addresses and five more of business addresses. They noted that, unlike the residential addresses, the business addresses were very common.

35. They also found five instances of instant messenger headers and five instances of phone numbers—both business and personal phone numbers. Like business addresses, business phone numbers were easier to find than personal ones.

36. A search for nine-digit or sixteen-digit numbers, which could have been Social Insurance Numbers (SIN) or credit card numbers, did not turn up anything due to there being too many other instances of irrelevant or similar numbers in the dataset. Therefore, although we found no evidence of SIN or credit cards numbers being collected, we still cannot entirely rule out the possibility that they were.

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37. Our technical experts also noticed sensitive items during their searches. For example, they found a list of names, phone numbers, addresses and medical conditions for specified individuals. They also found a reference to someone stopped for a speeding violation, along with address information.

38. Our experts often saw cookies being passed from client machines to Web servers. These cookies were unencrypted and some contained personal information,

including IP addresses, user names and postal addresses. They were surprised by the frequency of unencrypted cookies containing personal information.

39. In summary, our experts found many instances of personal information in the sample they took of the payload data collected in Canada by Google.

D. Segregation and the storage of the payload data

40. The WiFi data was collected through WiFi antennas attached to the roof of Street View cars. This WiFi antenna passively received the publicly broadcast radio signals within range of the car using open-source Kismet software. The data was then relayed to a Google-developed application called "gStumbler" and its executable program "gslite", which processed the data for storage. The data was then saved to hard drives physically located in each Street View car and then subsequently transferred to Google's servers.

41. Google alleges it grounded its Street View cars and segregated the payload data on a restricted area of its network as soon as it became aware that its gStumbler application was collecting payload data from unencrypted WiFi networks.

42. As a follow up step, a Google system administrator copied onto a total of four disks the files containing the payload data collected in all affected countries. This was done from May 9, 2010, to May 13, 2010. These disks contained two copies of the data: one copy obtained after categorizing and labelling the data files by country, and one copy of the data before categorizing.

43. On May 15, 2010, the system administrator consolidated the payload data onto an encrypted hard drive, segregated by country. A second copy of the encrypted hard drive was made for security and backup preservation. The four original disks were then destroyed in a disk deformer.

44. A Google employee personally delivered one encrypted hard drive to another Google location for safekeeping, while the system administrator kept the other one in a secure location. Once the Google employee arrived at the destination, the system administrator permanently destroyed the backup, encrypted hard drive. The US data was then segregated onto a separate encrypted drive, while the data from the rest of the world remained on the initial encrypted drive.

E. Google's future plans for its location-based services

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45. Google still intends to offer location-based services, but does not intend to resume collection of WiFi data through its Street View cars. Collection is discontinued and Google has no plans to resume it.

46. Google does not intend to contract out to a third party the collection of WiFi data.

47. Google intends to rely on its users' handsets to collect the information on the location of WiFi networks that it needs for its location-based services database. The improvements in smart-phone technology in the past few years have allowed Google to obtain the data it needs for this purpose from the handsets themselves.

48. Although it has no tracking tool to keep records of a customer's locations (and does not intend to create one), Google acknowledges that it does need to examine the potential privacy concerns of this method of collection.

F. Privacy implications of future plans, and mitigation and prevention measures

49. Google submits that it is striving to design privacy protections into all its products and services. It states that its employees receive orientation and code-of-conduct training that includes a privacy and data-security component. However, the responsibility of aligning Google's projects with its Privacy Principles and Privacy Policy lies with each of its product and engineering teams.

50. Google also states that as products are chartered or otherwise provided with resources and staffing, they are assigned to a Product Counsel in Google's legal department. This individual has a first-level responsibility for identifying privacy

issues in a product.

51. In order to avoid a recurrence of a product design having a negative impact on privacy, Google claimed to be reviewing its product launch procedures, code review procedures and 20% time policy. In so doing, it would ensure that its internal controls are robust enough to adequately address future issues. As of the issue date of this report, Google's review of its procedures/policies has not yet been completed.

Application

52. In making our determinations, we applied Principles 4.1.1 and 4.1.2 of the *Personal Information Protection and Electronic Documents Act*. Principle 4.1.1 stipulates that accountability for the organization's compliance with the principles rests with the designated individual(s), even though other individuals within the organization may be responsible for the day-to-day collection and processing of personal information. In addition, other individuals within the organization may be delegated to act on behalf of the designated individual(s). Principle 4.1.2 continues that the identity of the individual(s) designated by the organization to oversee the organization's compliance with the principles shall be made known upon request.

53. We also applied Principle 4.2, which states that the purpose for which personal information is collected shall be identified by the organization at or before the time the information is collected.

54. Principle 4.3 states that the knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate

55. Lastly, Principle 4.4 states that the collection of personal information shall be limited to that which is necessary for the purposes identified by the organization.

Findings

56. On September 15, 2010, I shared an earlier version of this report with Google and invited their response. Taking into consideration their response, I have revised my preliminary letter of findings. What follows is a summary of our findings and recommendations.

Collection of personal information

57. During their site visit, our technical experts uncovered substantial amounts of personal information in the form of e-mail message content (e.g., e-mail, IP and postal addresses), captured in Google's collection of payload data in Canada.

58. Google acknowledged to this Office that it did collect payload data, but not with the intent of using it in any of its products. According to Google, it was "simply mistaken" in collecting the data and did not seek consent from the affected individuals. Principle 4.3 of the *Act* requires that the knowledge and consent of the individual be obtained for the collection, use or disclosure of their personal information.

59. Google also stated that it had not identified any purposes for the collection of the payload data. Principle 4.2 requires that such a purpose be identified at or before the time of collection. Further, Principle 4.4 stipulates that the collection of personal information be limited to that which is necessary for the purposes identified. Since no purpose could be identified, it follows that the collection in this case clearly could not be limited to any specific purpose. This is in violation of Principle. 4.4.

Google's Product Counsel's involvement

60. Due to the engineer's failure to forward his design document to the Product Counsel, the Counsel was unable to assess the privacy implications of the code designed to collect WiFi data. This is a careless error that I take very seriously

since a review of design documents by a Product Counsel (and the use of a template) is clearly a mandatory step in Google's code design procedure.

61. As a result, the un-scrutinized code was later used to collect data containing personal information. If the Product Counsel had been involved when and as it should have been, Google may have discovered the risk of data over-collection and would have been in a position to remedy the situation before any collection took place. The ensuing negative effects on citizens' privacy and Google's reputation could easily have been avoided.

62. Google informed our Office that engineering and product teams are accountable for complying with Google's privacy policies and principles. Google then stated that it is working towards improving its code-and-product review processes, as well as accountability mechanisms, for engineering and product management personnel in order to improve their sensitivity to privacy issues at all stages of product and code development. A legal team is working with engineering directors to ensure a comprehensive review of codes for any privacy issues. Google believes that the review of its policies and procedures that it has undertaken will ensure no recurrences. Google stated that it will keep this Office informed as Google completes its review.

Code review and testing

63. Google asserted that the engineer who developed the lines of code did not see its ramifications of ultimately allowing the collection of a broader range of data from wireless networks. Our investigation was not able to determine with certainty if this was a one-time error committed by one individual or, perhaps, a sign of a more generalized lack of awareness among employees with regards to privacy implications of new products. At Google, the effects of new products on privacy should be well understood not only by the Product Counsel but also by the professionals who develop these products.

(b)(5) [redacted]

64. In this case, the review and testing of the product containing the code were insufficient to assess privacy impact. It would appear that the review consisted merely of ensuring that the product did not interfere with a second application—that used to collect pictures of the streets navigated by Street View vehicles.

65. As our investigation revealed, the review was not able to assess the extended capabilities of the product—including its ability to collect more information than necessary for the location-based project.

Steps taken to protect payload data

66. Once Google realized its Street View cars were collecting more data from wireless networks than anticipated, Google expressed regret in inadvertently collecting the publicly broadcast data. It immediately grounded its vehicles and took measures to safeguard the collected payload data and segregate it by country of origin.

67. Google's actions were justified, appropriate and sufficient to safeguard the payload data collected in Canada. In my view, Google upheld the related safeguard provisions under the *Act*.

68. Concerning the data that Google collected, it affirmed that it has no desire to use the Canadian payload data in any manner and will continue to secure the data with strenuous access restrictions until it is deleted.

69. To this, I would like to add that not only privacy laws, but other applicable laws in the U.S. and in Canada, including laws of evidence, must also be taken into account in determining when to delete the Canadian payload data collected.

Future plans

70. The fact that Google does not intend to resume collection of WiFi data with its Street View cars eliminates the possibility of further inappropriate collection of personal information through the tool developed by its engineer.

71. However, from users' handsets, Google intends to obtain the information needed to

populate its location-based services database. This alternative method of collection could also lead to inappropriate collection and retention of personal information if Google does not put in place appropriate safeguard measures.

Recommendations

72. I share Google's goal to avoid recurrences of any similar violations of individuals' privacy. While I am pleased that Google has taken under review its processes and procedures that could impact privacy, I would nonetheless like the organization to ensure that these controls are complemented by an overarching governance model embodying all privacy issues pertaining to the design of internal/external products and services. I would also like Google to respect reasonable timelines to implement both the governance model and the revised processes and procedures. With this view, and after reviewing the additional information Google provided this Office, I am making the following recommendations:
    i. That Google re-examine and improve the privacy training it provides all its employees, with the goal of increasing staff awareness and understanding of Google's obligations under privacy laws.

    ii. That Google ensure it has a governance model in place that includes:
        - effective controls to ensure that all necessary procedures to protect privacy have been duly followed prior to the launch of any product;
        - clearly designated and identified individuals actively involved in the process and accountable for compliance with Google's obligations under privacy laws.

    iii. That Google delete the Canadian payload data it collected, to the extent that Google is allowed to do so under Canadian and U.S. laws. If the Canadian payload data cannot immediately be deleted, the data needs to be properly safeguarded and access thereto is to be restricted.

73. At this time, I consider the matter to be **well-founded** and still **unresolved**. My Office will only consider the matter resolved upon receiving either by or before February 1, 2011, confirmation of the implementation of the above recommendations, at which point I will issue my final report and conclusions.

Date Modified: 2010-10-19

April 19, 2010

Office of the Privacy Commissioner of Canada

CNIL

Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit

Data Protection Commissioner

GARANTE PER LA PROTEZIONE DEI DATI PERSONALI

Privacy Commissioner New Zealand

AGENCIA ESPAÑOLA DE PROTECCIÓN DE DATOS

ico.

Mr. Eric Schmidt
Chairman of the Board and
Chief Executive Officer
Google Inc.
Mountain View, CA
USA 94043

Dear Mr. Schmidt:

Google is an innovative company that has changed how people around the world use the Internet. We recognize your company's many accomplishments and its dramatic impact on our information economy. As data protection regulators mandated to protect privacy rights, we also applaud your participation in discussions in many jurisdictions about new approaches to data protection.

However, we are increasingly concerned that, too often, the privacy rights of the world's citizens are being forgotten as Google rolls out new technological applications. We were disturbed by your recent rollout of the Google Buzz social networking application, which betrayed a disappointing disregard for fundamental privacy norms and laws. Moreover, this was not the first time you have failed to take adequate account of privacy considerations when launching new services.

The privacy problems associated with your initial global rollout of Google Buzz on February 9, 2010 were serious and ought to have been readily apparent to you.

In essence, you took Google Mail (Gmail), a private, one-to-one web-based e-mail service, and converted it into a social networking service, raising concern among users that their personal information was being disclosed. Google automatically assigned users a network of "followers" from among people with whom they corresponded most often on Gmail, without adequately informing Gmail users about how this new service would work or providing sufficient information to permit informed consent decisions. This violated the fundamental principle that individuals should be able to control the use of their personal information.

Users instantly recognized the threat to their privacy and the security of their personal information, and were understandably outraged. To your credit, Google apologized and moved quickly to stem the damage.

... / 2

While your company addressed the most privacy-intrusive aspects of Google Buzz in the wake of this public protest and most recently (April 5, 2010) you asked all users to reconfirm their privacy settings, we remain extremely concerned about how a product with such significant privacy issues was launched in the first place. We would have expected a company of your stature to set a better example. Launching a product in "beta" form is not a substitute for ensuring that new services comply with fair information principles *before* they are introduced.

It is unacceptable to roll out a product that unilaterally renders personal information public, with the intention of repairing problems later as they arise. Privacy cannot be sidelined in the rush to introduce new technologies to online audiences around the world.

Unfortunately, Google Buzz is not an isolated case. Google Street View was launched in some countries without due consideration of privacy and data protection laws and cultural norms. In that instance, you addressed privacy concerns related to such matters as the retention of unblurred facial images only after the fact, and there is continued concern about the adequacy of the information you provide before the images are captured.

We recognize that Google is not the only online company with a history of introducing services without due regard for the privacy of its users. As a leader in the online world, we hope that your company will set an example for others to follow.

We therefore call on you, like all organisations entrusted with people's personal information, to incorporate fundamental privacy principles directly into the design of new online services. That means, at a minimum:

- collecting and processing only the minimum amount of personal information necessary to achieve the identified purpose of the product or service;
- providing clear and unambiguous information about how personal information will be used to allow users to provide informed consent;
- creating privacy-protective default settings;
- ensuring that privacy control settings are prominent and easy to use;
- ensuring that all personal data is adequately protected, and
- giving people simple procedures for deleting their accounts and honouring their requests in a timely way.

In addition to respecting these broad principles, we also expect all organisations to comply with relevant data protection and privacy laws. These laws apply online, just as they do in the physical world. As well, we encourage organisations to engage with data protection authorities when developing services with significant implications for privacy.

As your users made clear to you in the hours and days after the launch of Google Buzz, privacy is a fundamental right that people value deeply. As regulators responsible for promoting and overseeing compliance with data protection and privacy laws, we hope that you will learn from this experience as you design and develop new products and services.

We would like to receive a response indicating how Google will ensure that privacy and data protection requirements are met before the launch of future products.

Sincerely,

Original signed by

Jennifer Stoddart
Privacy Commissioner of Canada

Original signed by

Alex Türk
Chairman, Commission Nationale de l'Informatique et des Libertés (France)

Original signed by

Peter Schaar
Commissioner, Bundesbeauftragte für den Datenschutz und die Informationsfreiheit (Germany)

Original signed by

Billy Hawkes
Data Protection Commissioner of Ireland

... / 4

Original signed by

Yoram Hacohen
Head of the Israeli Law, Information and Technology Authority

Original signed by

Francesco Pizzetti
Garante per la protezione dei dati personali (Italy)

Original signed by

Jacob Kohnstamm
Chairman, College Bescherming Persoonsgegevens (Netherlands)
Chairman, Article 29 Working Party

Original signed by

Marie Shroff
Privacy Commissioner, New Zealand

Original signed by

Artemi Rallo Lombarte
Director, Agencia Española de Protección de Datos (Spain)

Original signed by

Christopher Graham
Information Commissioner and Chief Executive (United Kingdom)

CONTACT US: **1300 363 992**

Australian Government
Office of the Privacy Commissioner
Australia's national privacy regulator, protecting personal information

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A-Z

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Topic(s): Collection | Technologies

Australian Privacy Commissioner obtains privacy undertakings from Google

Australian Privacy Commissioner Karen Curtis has concluded her investigation into Google's collection of unsecured WiFi payload data in Australia using Street View vehicles.

"On the information available I am satisfied that any collection of personal information would have breached the Australian Privacy Act.

"Collecting personal information in these circumstances is a very serious matter. Australians should reasonably expect that private communications remain private.

"In response to our investigation, Google has provided me with written undertakings that it will:

- Publish an apology to Australians in Google's official Australian blog (www.google-au.blogspot.com) for its collection of unsecured WiFi 'payload' data.
- Undertake to conduct a Privacy Impact Assessment (PIA) on any new Street View data collection activities in Australia that include personal information.
- Provide a copy of these PIAs to my Office.
- Regularly consult with the Australian Privacy Commissioner about personal data collection activities arising from significant product launches in Australia.

"These steps will ensure Google's future products have privacy protections built in rather than bolted on. Google's undertakings will last for three years. These undertakings will be reviewed following any

reforms to the Privacy Act.

"Under the current Privacy Act, I am unable to impose a sanction on an organisation when I have initiated the investigation. My role is to work with the organisation to ensure ongoing compliance and best privacy practice.

"This was an issue identified by the Australian Law Reform Commission (ALRC) inquiry into Australian privacy laws. The ALRC recommended that the enforcement regime be strengthened. My Office supports these recommendations, and the Australian Government has announced its intention to adopt them.

"Other privacy authorities and law enforcement agencies may still be investigating the collection of WiFi 'payload' data by Google. In view of those ongoing investigations I do not propose to comment in more detail.

"I would like to thank my international counterparts in New Zealand, Canada and Hong Kong, who worked with my Office in examining this matter.

"I also acknowledge the cooperation offered by Google throughout my investigation.

"My Office has produced a Guide to assist organisations undertake PIAs. The Guide is available at: http://www.privacy.gov.au/materials/types/download/9509/6590.

TechCrunch

Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously

by **MG Siegler** on May 19, 2010

Google Latitude has **3 million active users**, but you wouldn't know it by the amount of buzz they get in the location space these days. (Which is to say, just about none.) The problem is that Latitude has been pretty restricted, and not exactly geared towards how most people are using location-based services these days. (Which is to say, checking-in.) But starting today, that is all changing in a big way, with the Latitude API.

This API will allow third-party developers to come up with their own apps that can take advantage of Google's location services. This may spell some trouble for the location platforms out there that are just starting to hit their stride, such as **Foursquare** and **SimpleGeo**. And while you may think that Latitude's fundamental problem still remains (that it is continuously updating, rather than based around check-ins), with this API, that will very likely be changing as well.

In its **post** on the matter, Google is a bit vague:

> We've also learned that making your phone's continuous location available in the background is tricky to do accurately and efficiently — just imagine your phone's battery life if several apps were continuously getting your location in different ways? With this in mind, we built a free and open Latitude API that lets the third party developers you choose start using your updated location in new ways without reinventing the wheel.

Looking over the **documentation** for this API, it's clear that it should be relatively easy for developers to build a check-in service on top of Latitude. Much of the API is built around location lists. You can get a list of locations (as well as insert locations) in both users' current location stream, as well as their historical stream (assuming they give your app permission to do so, of course).

Perhaps more significantly, Google is using the new Google Places API that assigns IDs to individual places — you know, the kind you check-in to. Could this help build the **unified place database** we've all been **waiting for**?

This all seems to be in line with what Google's Steve Lee said earlier this month. At Web 2.0 Expo, he **hinted** that Latitude would start allowing for check-ins in the future. But he also said that the future was a combination of check-ins and always-on location (along with robust location history, which **Latitude has**). That future is coming very soon with this API.

If I were Facebook, I'd want to get **my location entry** out there pronto.

Update: SimpleGeo has posted a **good response** on their blog, noting that the Latitude API is more like *Fire Eagle 2.0*. Fire Eagle, while being an early entry in the location space, of course, never went anywhere. Here's the key nugget in their take:

> Fundamentally, this is what the new Google Latitude API is. It's not a distributed geospatial platform that allows app developers to build robust location-aware apps. It's not a location-aware game that you can check in to local businesses, find friends, and get coupons. It's only concerned with presence.

Moreover, their take is that SimpleGeo will work nicely with Latitude:

> While we see Apple's Core Location service and Google Latitude API as a great way of acquiring a user's location, the SimpleGeo API is what you do with that location.

That said, SimpleGeo is quick to note some of the privacy implications of this new API, which seems to mean that they might be at least in some ways worried about it (or how developers will perceive it).

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+4 Vote up Vote down

Mike Chawla Zp · ***16 hours ago***

I'm wondering whether Facebook or Google will be the first to allow check-ins.
Report
Reply
3 replies · *active 16 hours ago*
0 **Vote up Vote down**

Justin · ***16 hours ago***

My money is on GOOG.
Report
Reply
0 **Vote up Vote down**

Jack · ***13 hours ago***

My money is on Foursquare... Google will loose again like it did back then when Twitter started (someone remember Haiku?)
Report
Reply
+2 **Vote up Vote down**

@derek · ***9 hours ago***

I think you mean Jaiku instead of Haiku, as well as "lose" instead of "loose". Oh, and foursquare already does check-ins.
Report
Reply
0 **Vote up Vote down**

jeb · ***16 hours ago***

Agreed. I think this is what Yahoo's Fire Eagle was trying to do (open up location to all developers). Combining Check-in and "Always On" will be a powerful combo.
Report
Reply
1 reply · *active 13 hours ago*

+1 **Vote up Vote down**

MG Siegler 63p · ***13 hours ago***

in many ways, yes. simplegeo has some good thoughts on that**http://blog.simplegeo.com/post/614361443/simplege...**
Report
Reply
-2 **Vote up Vote down**

Emerson Tech · ***15 hours ago***

How would something like this affect FourSquare or SimpleGeo? Didn't those guys win the location wars back in Austin? I think it's too little too late for Google, sorry Mtn View but you're behind the curve once again.
Report
Reply
1 reply · *active less than 1 minute ago*
+2 **Vote up Vote down**

Kevin · ***15 hours ago***

Win what? This whole location based thing is still in its infancy. Nobody has 'won' yet.
Report
Reply
+1 **Vote up Vote down**

browsee · ***16 hours ago***

Is latitude available in iPhone?
Report
Reply
3 replies · *active 13 hours ago*

+1 **Vote up Vote down**

MG Siegler 63p · ***13 hours ago***

through the web, yes, through an app, no. hopefully they'll do something with background location in iphone 4.0, but i wouldn't hold my breath.
Report
Reply
0 **Vote up Vote down**

marcoo · ***13 hours ago***

it's a layer in google maps
Report
Reply
0 **Vote up Vote down**

Aaron Gibson · ***12 hours ago***

Yes, but only as a webapp
Report
Reply
+1 **Vote up Vote down**

nickybee123 1p · ***15 hours ago***

hmm - interesting for sure - however privacy considerations here are a little disingenuous...

Latitude will still be doing

(a) Continuously updating location in background - with the usual battery implications and privacy considerations. It's all well and good to attempt to solve these technically using a bunch of settings for the user. But this is exactly the kind of problem facebook is tripping over right now. (if users don't use those settings or don't know how to...it doesn't help very much)

(b) everybody needs a google account - of course this is not a problem from google's point of view - but it very much is from the point of view of new user acquisition and growth (especially when you start spreading this functionality to smarter feature phones etc.

I love the 3 million users quote - really google ?? how many of those have zero friends ? or 1 friend. (i.e. they set it up once and then NEVER used it again)

Remember that this is a system where google ALWAYS tracks your location in full detail - the API permissions allow other companies to see less detail than that....woo hoo...

I wrote about this in more detail here -**http://echoechome.wordpress.com/2010/05/19/latitu...**
Report
Reply
3 replies - *active 15 hours ago*
0 **Vote up Vote down**

Michael Koby · ***13 hours ago***

Why are people so quick to point out so called "privacy concerns" on things that users have to OPT-IN on? It's not like you get a Google account and they start watching your every move via Latitude. In fact you have to go out of your way to 1) activate the service and 2) set it to always run. If you have an iPhone you can't even have it run in the background, so that whole issue pretty much goes out the door. Even on Android phones you have to knowingly OPEN the app for it to track your location, it just doesn't do it automatically.,

Seriously. There is no privacy concerns when it comes to location services. 1) Users have to Opt-in, 2) they have to actually USE the app, and 3) if its checkin based (like FourSquare or Gowalla) they have to actually check in too.
Report
Reply
+1 **Vote up Vote down**

@derek · ***9 hours ago***

Everyone has opted-in to Facebook, and look where that has gotten us.
Report
Reply
0 **Vote up Vote down**

Men. · ***13 hours ago***

Well, with Facebook it doesn't really have anything to do with users not knowing how to make their privacy how they want it; it has to do with Facebook pretending like you're able to do what you want and then not allowing you to.
Report
Reply

0 **Vote up Vote down**

Scott · ***15 hours ago***

What about user generated locations, will they be given a Google Place ID or ignored?
Report
Reply
1 reply · *active 13 hours ago*

+1 **Vote up Vote down**

MG Siegler 63p · ***13 hours ago***

Not clear at this point. Hopefully we'll know more soon.
Report
Reply

+1 **Vote up Vote down**

nikolay ·84p · ***11 hours ago***

Yahoo! screws up (almost) everything and Latitude has 3 million users, so, here's the big difference between Fire Eagle and Latitude. This is just the start. Google starts this location game by making careful baby steps, given all the privacy involved, but at the end, it will be the major player in the location game.

Not everybody is into playing (childish) games and mayor discounts will only be getting harder to get if foursquare becomes more mainstream, so, very little incentive there and it may work for Starbucks in genral, but it will be still a toy of a niche demographic. Google already has coupons, Places, and many other things in their system to bridge to Latitude and it will be tons more powerful than any foursquare or Gowalla could ever be.
Report
Reply
1 reply · *active 11 hours ago*
0 **Vote up Vote down**

@derek · ***8 hours ago***

I'm not going to say that Yahoo hasn't botched some products in the past, but all big companies do, and Google is no exception. Just look at Jaiku, Dodgeball, Wave, Buzz, Knol, Base, etc...

This is a reaction to Facebook's rumored geo services. We haven't heard a peep out of Latitude since launch. Meanwhile Foursquare, Gowalla, and SimpleGeo are getting all the hype.
Report
Reply
0 **Vote up Vote down**

gucci · ***5 hours ago***

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Email
Website (optional)

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Not displayed publicly.

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simonkp
Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously: Google Latitude has 3 million ac... **http://bit.ly/92HS99**

nelsonwee
Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously (unified check in database?) **http://bit.ly/dah42F**

ScepticGeek

With Latitude API Google Starts Taking Location Very Seriously **http://bit.ly/bsYAfL** says **@parislemon** /with feedback from SimpleGeo

Akbarsait
Watch Out Rivals, With Latitude API #Google Starts Taking Location Very Seriously - **http://tcrn.ch/cSjZfD** (via **@TechCrunch**)

jfz
check-inも自動測位もできるように。また持ってかれそう。そして4sqクローン大発生か。 RT **@TechCrunch** Google Starts Taking Location Very Seriously **http://tcrn.ch/cSjZfD** **@parislemon**

tednyc
Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://bit.ly/a01Xbj**

LukeGundy
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mike_langton
First Twitter then Facebook now Google shakes things up with a Location API. Watch out Foursquare & Co.! **http://tcrn.ch/dIjma**

amobbs
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LocalSearchAds
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Shervin
RT **@StartupDigest** : Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://bit.ly/9cOQpa** [via **@TechCrunch**]

jaasiya
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mattpowell
Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://bit.ly/8Z1F1P** ^

richardBarley
Shared: Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously: Google Latitude has 3 mi... **http://bit.ly/92HE99**

MouseDude
In the news: Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://ow.ly/17qChS**

LynnJacobs012
RT **@fempires** : #TechFempires - Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://ow.ly/17qCS2**

socialdigest
Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://ow.ly/17qCec**

PhilipHotchkiss
<+1 RT **@parislemon** : Watch Out Rivals, With Latitude API Google Starts Taking Location Very Seriously **http://tcrn.ch/cxDbKI**

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May 18, 2010

Germany Asks Google to Surrender Private Data

By KEVIN J. O'BRIEN

BERLIN — Google came under increased pressure in Europe on Tuesday over its collection of private data from unsecured home wireless networks, as a German regulator threatened legal action if the company did not surrender a hard drive for inspection.

The German demand underscored the seriousness of the quandary Google now faced following its admission last Friday that it had stored the snippets of Web sites and personal e-mail messages from people around the world while compiling its Street View photo archive.

Johannes Caspar, the data protection supervisor for the city-state of Hamburg, where Google's German headquarters are located, said Tuesday that he had given Google until May 26 to hand over one of the hard drives that it had used to collect and store information in Germany, where Street View is not yet available.

Through a spokesman, Google reiterated its offer to destroy the WLAN data in conjunction with regulators, but stopped short of saying it would hand over a hard drive, which would allow regulators to see for the first time what kind of data had been collected.

Viviane Reding, the European justice commissioner, criticized Google for not cooperating with German privacy officials.

"It is not acceptable that a company operating in the E.U. does not respect E.U. rules," she said in a statement released by her office.

Mr. Caspar, who is leading the government's discussions with Google, said during an interview that "Up until now, all we have to go on at this point is what Google has told us that they have collected. But until we can inspect one of the hard drives ourselves, we will not know to what extent what kinds of data have actually been stored."

Prodded by Mr. Caspar and other officials in Germany, Google last week said it had collected 600 gigabytes of data from unsecured wireless area networks, or WLANS, from around the world as its roving cars compiled a photo archive for Street View.

The admission was sharply criticized in Germany, and came less than two weeks after Google had assured officials that it had stored only two pieces of WLAN data: the unique I.D. number of the device, called a MAC address, and its assigned name.

Google apologized for collecting what it described as fragments of information from unsecured WLANs, saying its actions were inadvertent and the result of a programming error.

A Google spokesman in Hamburg, Kay Oberbeck, said the company had no response to the Hamburg regulator's request beyond its standing offer to destroy the data collected in Germany in conjunction with regulators. Google said it had destroyed WLAN data during the weekend that had been improperly collected in Ireland, at the request of the regulator.

"We are in contact with the Hamburg regulator, Mr. Caspar,"Mr. Oberbeck said. "Naturally we are interested in destroying the data, in conjunction with the relevant regulators, as soon as possible."

In a blog posting late Monday, Alan Eustace, a Google senior vice president for engineering and research, wrote that a San Francisco company, Isec Partners, had overseen destruction of the Irish data. In his blog Mr. Eustace included a link to a report from Alex Stamos, the Isec Partners employee who witnessed destruction of the Irish data from the larger batch of WLAN data improperly collected around the world.

In his letter to Google, Mr. Stamos described the WLAN data in question as being contained on four hard drives, organized by individual country. Mr. Stamos said he created volumes on two new encrypted hard drives and copied over all of the data except for Ireland. The original four hard drives were then destroyed, Mr. Stamos wrote.

Google has said its WLAN catalogue was designed to enhance its mobile advertising service, which can alert mobile phone users to nearby businesses and other attractions by often pinpointing their locations through WLANs.

Mr. Caspar said he had not yet received a response from Google. "I would think it would be in their interests too to clarify the matter as quickly as possible," he said.

Should Google defy the regulator's request, Mr. Caspar said he had the power to fine the company, and could ask the state prosecutor in Hamburg to evaluate whether to bring charges against Google for improper collection of private data. Mr. Caspar said Hamburg's data protection law gave him the power to assess fines of up to €300,000, or $369,000.

To ease privacy concerns in Germany, Google has agreed to give property owners the right remove their property from Street View before the service goes live, which was planned for later this year. It is the first time that Google is giving consumers the right to opt out in advance. Current procedures let users request that their property be removed after the service goes live.

In a related development, a law student from western Germany said Tuesday that he had filed a formal complaint with the Hamburg state prosecutor's office alleging that Google's WLAN data collection violated German law. Jens Ferner of Alsdorf said he faxed his complaint to the prosecutor's office on Monday seeking to clarify the legal situation regarding use of open WLANs.

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THE WALL STREET JOURNAL
WSJ.com

TECHNOLOGY | MAY 18, 2010

FTC Likely to Examine Google's Wireless Gaffe

By THOMAS CATAN And JESSICA E. VASCELLARO

The U.S. Federal Trade Commission is likely to open a preliminary inquiry into Google Inc.'s disclosure that it accidentally harvested data from unsecured wireless networks for several years, several people familiar with the matter said.

The process is at an embryonic stage and whether the FTC has begun gathering information from other parties about the incident remains unclear. Any resulting investigation wouldn't necessarily lead to action. But if the FTC decides to pursue, it would be the latest federal inquiry to examine the Internet search giant's behavior.

The FTC's Bureau of Competition is currently deciding whether to challenge Google's proposed $750 million takeover of mobile advertising company AdMob Inc. At the same time, the FTC's consumer protection arm is conducting a wide-ranging review of the ways in which online companies collect and employ data about their users' online behavior.

In this case, the Bureau of Consumer Protection is the most likely part of the FTC to be tasked with investigating whether the behavior detailed in Google's latest admission broke any laws.

An FTC spokeswoman declined to comment. A Google spokeswoman also declined to comment beyond the company's blog post Friday.

In it, the company said it had discovered that the roving cars it uses to create its online mapping services were inadvertently gathering data from people's web use over "Wi-Fi" networks without passwords.

Google said it was "reaching out to regulators in the relevant countries about how to quickly dispose" of the data the company had collected. The post also said that Google would ask a third-party to review the software and what data it gathered.

On Monday, Google updated its blog post saying it had started to erase some of the data it said it had inadvertently collected in Ireland after the Irish Data Protection Authority requested it do so. If the FTC opens a formal investigation, some legal experts said they would probably ask that Google preserve the relevant data.

Consumer advocacy group Consumer Watchdog said Monday it was sending the FTC a letter urging the agency to investigate the mishap. John Simpson, the group's consumer advocate, said he was concerned that Google's promise to get third-parties to review the software in question was insufficient.

Other privacy advocates said it was unclear whether the FTC was the correct agency to review the matter and that they would wait to see how European authorities—who have been scrutinizing Google's collection of Wi-Fi information for months—reacted before deciding whether to petition U.S. regulators to intervene.

Write to Thomas Catan at thomas.catan@wsj.com and Jessica E. Vascellaro at jessica.vascellaro@wsj.com

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Data collected by Google cars

Tuesday, April 27, 2010 | 1:01 PM

Labels: Germany, privacy, Street View

Over the weekend, there was a lot of talk about exactly what information Google Street View cars collect as they drive our streets. While we have talked about the collection of WiFi data a number of times before—and there have been stories published in the press—we thought a refresher FAQ pulling everything together in one place would be useful. This blog also addresses concerns raised by data protection authorities in Germany.

What information are your cars collecting?
We collect the following information—photos, local WiFi network data and 3-D building imagery. This information enables us to build new services, and improve existing ones. Many other companies have been collecting data just like this for as long as, if not longer, than Google.

- **Photos**: so that we can build Street View, our 360 degree street level maps. Photos like these are also being taken by TeleAtlas and NavTeq for Bing maps. In addition, we use this imagery to improve the quality of our maps, for example by using shop, street and traffic signs to refine our local business listings and travel directions;
- **WiFi network information**: which we use to improve location-based services like search and maps. Organizations like the German Fraunhofer Institute and Skyhook already collect this information globally;
- **and 3-D building imagery**: we collect 3D geometry data with low power lasers (similar to those used in retail scanners) which help us improve our maps. NavTeq also collects this information in partnership with Bing. As does TeleAtlas.

What do you mean when you talk about WiFi network information?
WiFi networks broadcast information that identifies the network and how that network operates. That includes SSID data (i.e. the network name) and MAC address (a unique number given to a device like a WiFi router).

Networks also send information to other computers that are using the network, called payload data, but Google does not collect or store payload data.

But doesn't this information identify people?
MAC addresses are a simple hardware ID assigned by the manufacturer. And SSIDs are often just the name of the router manufacturer or ISP with numbers and letters added, though some people do also personalize them.

However, we do not collect any information about householders, we cannot identify an individual from the location data Google collects via its Street View cars.

Is it, as the German DPA states, illegal to collect WiFi network information?
We do not believe it is illegal—this is all publicly broadcast information which is accessible to anyone with a WiFi-enabled device. Companies like Skyhook have been collecting this data across Europe for longer than Google, as well as organizations like the German Fraunhofer Institute.

Why did you not tell the DPAs that you were collecting WiFi network information?
Given it was unrelated to Street View, that it is accessible to any WiFi-enabled device and that other companies already collect it, we did not think it was necessary. However, it's clear with hindsight that greater transparency would have been better.

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Why is Google collecting this data?
The data which we collect is used to improve Google's location based services, as well as services provided by the Google Geo Location API. For example, users of Google Maps for Mobile can turn on "My Location" to identify their approximate location based on cell towers and WiFi access points which are visible to their device. Similarly, users of sites like Twitter can use location based services to add a geo location to give greater context to their messages.

Can this data be used by third parties?
Yes--but the only data which Google discloses to third parties through our Geo Location API is a triangulated geo code, which is an approximate location of the user's device derived from all location data known about that point. At no point does Google publicly disclose MAC addresses from its database (in contrast with some other providers in Germany and elsewhere).

Do you publish this information?
No.

But wouldn't GPS enable you to do to all this without collecting the additional data?
Yes--but it can be much slower or not available (e.g. when there is no view of the sky; when blocked by tall buildings). Plus many devices don't have GPS enabled. GPS is also expensive in terms of battery consumption, so another reason to use WiFi location versus GPS is to conserve energy.

How does this location database work?
Google location based services using WiFi access point data work as follows:

- The user's device sends a request to the Google location server with a list of MAC addresses which are currently visible to the device;
- The location server compares the MAC addresses seen by the user's device with its list of known MAC addresses, and identifies associated geocoded locations (i.e. latitude / longitude);
- The location server then uses the geocoded locations associated with visible MAC address to triangulate the approximate location of the user;
- and this approximate location is geocoded and sent back to the user's device.

How do your cars collect this WiFi data?
Visibly attached to the top of the car is a commercially available radio antenna. This antennae receives publicly broadcast WiFi radio signals within range of the vehicle. The equipment within the car operates passively, receiving signals broadcast to it but not actively seeking or initiating a communication with the access point.

Why didn't you let the German DPA see the car?
We offered to let them examine it last year --it is totally untrue to say we would not let them see the car. They are still welcome to do so.

How do you collect 3-D building imagery?
We collect 3D geometry data with low power lasers (similar to those used in retail scanners).

Is this safe?
Yes.

You can also read the WiFi submission we made today to several national data protection authorities.

Posted by Peter Fleischer, Global Privacy Counsel

** Added additional sentence to first bullet point.

31 comments:

Ionia said...

SMEs (2)
Street View (4)
Switzerland (1)
Telecoms (4)
The Netherlands (1)
United Kingdom (2)
YouTube (4)

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We do not believe it is illegal--this is all publicly broadcast information which is accessible to anyone with a WiFi-enabled device.

If you truly believe this information is not identifying, then you should release the data (this will enable other to use it, and people won't have to rely on google's server to do geolocation, which is a privacy concern too).

April 27, 2010 2:49 PM

JSG said...

Are you serious?

People are bothered by Google collecting data and keeping it private. Any WLAN-gadget can only as much as ask "I'm near the Router with MAC xyz, where am I?" - and people cry.

You suggest, that Google should make the data public. That would be a serious privacy concern.

A german politician just said, privacy would start at 2m, as Streetview is higher, it should be forbidden. Well, hopefully being taller than 2m and windows in trucks and busses above 2m won't be forbidden aswell....

April 27, 2010 6:04 PM

Ionfa said...

@JSG:

What is better (I'm only talking about BSSID/ESSID)?
1) Google doesn't collect any data
2) Google collects data and keeps it private
3) Google collects data and makes it public

In my opinion, 2 is the less interesting option, it still make Google able to have potentially private data, and because it gives them a monopoly on geolocation it allows them to gather even more information, especially if identifying information are sent during geolocation queries (in android, chromium, etc.).

(and it gives them a competitive advantage, since they are able to use geolocation queries to refine their data: when people have fixed IPs, with the help of previous geolocation queries they can find out the precise location of an IP)

And keep in mind people already collect this data, and sell it. So if you're concerned about this being available, it's already the case, except it costs money.

April 27, 2010 6:31 PM

Scott Cleland said...

I am flattered to see that you all are reading and responding in part to my PrecursorBlog.com posts, in particular, my post:
http://precursorblog.com/content/questions-google-its-latest-act-privacide-part-xxi-privacy-vs-publicacy-series
Google would engender much more trust if it did not sneak around mass violating people's privacy, but was upfront about what Google wanted to do with people's private information in advance, and gave people and authorities time and opportunity to give input, before their privacy was irreparably compromised.
Your post would not have been necessary if Google had a track record of respecting privacy and being forthright with users; unfortunately Google's track record is the opposite.
Almost all of Google's problems are self-inflicted, where Google presumes it always knows best and operates accordingly, hardly ever asking for permission/authorization for things users and governments believe they should be asked about
Moreover, Google's response/defense that others do these same things may be irrelevant

because Google has uniquely claimed to always operate under a "don't be evil" corporate standard of behavior... Thus its not about others' standards, its about whether Google lives up to its own lofty representations Google deliberately set high to engender trust... This post was a step in the right direction. Every real journey begins with a single step... lets see if Google continues to be more responsible, transparent, and accountable... I genuinely hope so.
Scott Cleland, Publisher of GoogleMonitor.com, and Googlesopoly.net

April 27, 2010 8:44 PM

God Is Dead? said...

I wonder if this is going on in the United States?

I hope not.

April 27, 2010 8:47 PM

Benjamin said...

@tonfa:

You are contradicting yourself when you say that collecting MAC address data "gives them [Google] a monopoly on geolocation" and "people already collect this data". Clearly Google does not have a monopoly on geolocation. Other companies do that same thing.

Of course it would give them a competitive advantage. If not, why would they do this? They are a company, after all. Again, other companies already do the exact same thing.

As for the data already being available for a price, that's prohibitive in itself. Probably only larger companies interested in that data would pay for it, and it wouldn't be available to just anyone who is interested.

In my opinion, Google collecting this data is a good thing. They can offer up better services and many times for free. Google Maps is free. They offer up the use of their maps API for free, and if you're writing mobile software you can tap into this database for free. Why would I want to store and manage this data myself? Who knows what it would take to process and store the data? Server farms? Data warehouses?

Google is doing us a favor. Think about that.

April 27, 2010 9:10 PM

Mark said...

My Wifi SSID contains my last name, but is usually hidden. Therefore I neither want it to be catalogued nor provided to unknown end-users for whatever reasons, of course. Do you respect that? Do you take precautions to not harvest personalized Wifi data?
(The same question goes to your competitors.)

April 27, 2010 10:36 PM

Vincent said...

The fact that other services do it too, is a cheap excuse imho, as doing what others do still doesn't make it right.

I've read a great proposal in an article last week, that Google should handle the information they have about people like banks handle the money of people...

Everybody should have access to what's being collected (and I mean 'access', not just a display page like 'dashboard') and have every possibility to restrict and customize their personal settings.

I use lots of Google services myself and am not at all one of the haters who think the

internet and everything with it is evil.

But transparency will still make this whole thing a lot easier and people who know what they get are happier people..

April 28, 2010 12:08 AM

tonfa said...

@God is Dead:

Sure this is going one in the US, there. Privacy is usually better protected in Europe where it comes before the freedom of speech (probably due to historical reasons, 2nd world war and Stasi for example).

@Benjamin:

Does anyone know how skyhook does it? Do they collect the data themself? or do they buy it to local companies in each country?

There's still one difference between skyhook and google: skyhook only provides that service, while google uses geolocation as part of other end-user product, at least in Chrome and Android. In those product I don't think the user is aware he is sending data to google's server (knowing what is known and stored by Google on geolocation queries would be nice).

@Mark

I don't think they actually need the ESSID, the MAC (BSSID) should be sufficient and is not usually not identifying (I don't think vendors can track where each wifi routeur went).

April 28, 2010 9:35 AM

christian said...

I am not sure I understand why you collect SSIDs if you have the MAC address. SSIDs are totally irrelevant, could change at any time and potentially contain personal data (like your name).

The other thing I am wondering whether you collect "hidden" WLAN SSIDs. They can usually not be seen but we know some tools make them visible. Are such hidden Accesspoint information collected ? That would seem unfair since the owner marked an interest to not be visible.

April 28, 2010 9:38 AM

mandavi said...

Is there a possibility to have a certain SSID deleted? I included my email in it and don't want anyone to be able to connect my email address to where I live

April 28, 2010 1:34 PM

Comp said...

@Mark and @mandavi

If you are so worried about your names, email addresses, etc. Why would you put them on something anyone driving by with an iphone will see?

If you don't want people knowing your private information, stop advertising it. Your SSID only needs to be unique enough so YOU know where to connect to

@tonfa and @christian

ESSID is a far safer piece of information to reveal. If people are shown MAC addresses and given the way that ethernet works, people could then start listening for packets destined for that MAC address. With that you can relate data packets to physical addresses without even being in the area. The SSID is only useful if your within 1/4 mile of the hotspot.

April 28, 2010 2:20 PM

DooMMasteR said...

@Mark: if it is hidden thy can only catch your MAC and that is it as the MAC does not reveal your identity there is no harm done

but as some chalanges do reveal your networks name, you should maybe consider to change it

April 28, 2010 3:21 PM

Guillermo Le Coco said...

I can do the same.

Why German politics are so st....d ?

Why Google should release these information when you can do the same by your self?

If you want google SSID information, pay it ! or take a car and pay a driver to scan all the city. The result will be the same.

Best regards.

April 28, 2010 3:23 PM

ronfar said...

I'm amazed at some of the posts here...

If you are concerned about your WLAN SSID, you are either not hiding it, you are using its standard name, or putting things in the name which should not be there. As I've just read, what is an email address doing in an SSID? Don't put it there in the first place!

I think Google is really doing us all a favor by offering maps and other services for free. They cannot do that without collecting data, lots of it. I've always said, as long as Google is not bought by a bank, I will not be concerned. Banks, governments, even ISP's (all your Internet traffic passes through your ISP!), they all have *more* personal info about you than Google.

And get real. It's 2010. Information cannot be hidden anymore. Even 30 years ago, when electronic phone exchanges made their appearance, just picking up the phone -that's without even dialing a number-, even *that* was logged somewhere. How many people know that many ISDN phones can be activated remotely to listen to what's happening in the room where the phone is located???

And you're concerned about SSID names being collected by Google??? A bit of common sense, please.

April 28, 2010 3:29 PM

bobzilla said...

Netstumbling has been around for almost a decade now.. wigle.net

April 28, 2010 6:51 PM

bboissin said...

I'm talking about the BSSID: http://en.wikipedia.org/wiki/Service_set_(802.11_network)#Basic_service_set_identifier_.28BSSID.29

I don't think base station often travel, and the user don't put information in it (while he might do it in the ESSID), and contrary to the ESSID it is supposed to be unique.

April 28, 2010 7:24 PM

jazzsp8 said...

I don't really see the problem at all, if you've a bit of common sense then none of this will effect you.

If your broadcasting a signal with your WiFi then you should be aware that anyone who walks near your house with an enabled phone in their pocket can pick up on your device, therefore putting any kind of personal information in that broadcast is kinda dumb.

Most of the people that are running around screaming about privacy and violations thereof aren't using common sense and really need to start educating themselves about the digital age.

I sincerely hope and doubt that nobody would leave there wallet outside on the driveway with a post it note attached with the relevant Pin numbers inside for the credit cards; as far as I'm concerned this is pretty much the same thing, don't give anyone walking by the opportunity to get in your stuff by making it blatantly obvious how to get it.

April 29, 2010 9:58 AM

mandavi said...

@Comp sure, in a city full of crime one could say, if you are worried to leave your apartment, just don't - what is pizza delivery for? fact is, i had reasons to put my email in the SSID (give the possibility to others to share my connection) and i don't worry about the guy with his i-phone. i worry about data mining. now a company comes and wants to take this possibility from me and others. with what right?

April 29, 2010 10:09 AM

jcollar said...

@mandavi

Sharing your connection is no reason to use your e-mail address as your SSID. Do you mean your WEP or WPA key? Those keys cannot be collected by a scan.

Any company has a right to take any data which you freely publicize. Is the postal service not allowed to know your house number even though it is posted on the front of your home?

April 29, 2010 5:58 PM

bboissin said...

@jcollar

you might want people to be able to mail you, and ask you for the key (and to this end you can put your mail in your ESSID).

April 29, 2010 6:30 PM

J delaney said...

And if you care that anyone walking by can see your email address, just create a new Gmail account and set it to forward all mail to your real account, then put the new gmail address as your SSID.

Gmail's spam filter will nuke anyone who tries to take advantage of your address, and your real email address will remain hidden. I use this strategy all the time when I have a reason to publicly post my email address somewhere.

April 29, 2010 8:57 PM

Derek Kerton, The Kerton Group said...

Oh Noeth!

I hath learned that one italian by the name of Marco Polo is sailing his ship around the world, visiting foreign lands, and mapping out the shores.

Some of those shores are OURS. People, rise against the tyranny of gathering information for personal gain, sharing among interested parties, and the abdication of our privacy to keep our shorelines obscure!

And lo, if it is not far more evil! If we put a big sign at our port with the name of the port, and advertising the availability of some form of service in it's sweet, safe harbours, this Marco Polo, cartographer from Hades, will take a note of that name and offering, and include it in his ships logs!! The collection of such private data is a sin before our lord. Consider our knickers to be in a painful twist!

Some unwise people, in the messages above, have even put private data on these ocean-facing signs. But they only intended those for their own consumption - how could they have expected someone else's ship to sail by the coast, and invade the sanctity of that most private information which they had broadcast out to sea?

Written in the year of our lord, 2010.

PS: Google, please stop re-enforcing the mistake that "triangulation" is at all at play here. There are no angles used in the position calculations. It is "Tri-lateration", where relative distances are used.

April 29, 2010 11:31 PM

D. Reed Hall said...

As I read these comments, I am stunned by people's ignorance of the word "public". If you are in a "public" place, I have the right to photograph you. If you are in a public place, I have the right to record what you say and do. The airwaves are public property. It has long been understood that cell phone conversations captured by devices available at Radio Shack are permissible. So what is the problem with Google paying their employees or third party employees to collect MAC addresses over "public" airwaves? If confidentiality is required, their are ways to encrypt data. But, for most of us, we are content to broadcast our cell phone conversations and our computer data over the "public" airwaves. And, if a company, any company, wants to pay people to go around and collect the data floating in the public airwaves, then they have the right to do so.
David Hall
A civil libertarian who understands the use of the word "public".

April 30, 2010 8:50 AM

bboissin said...

@D. Reed Hall

And that is were the european version of public and privacy really conflict. Even if something is public, even if you can take a picture of me, you don't have to right to publish it.

And if instead of just taking a picture, it's thousand of picture, with a lot of people, then you're building a digital file with personally identifying data, and that's even more protected and you'll have to ask for permission from a data privacy authority (e.g. CNIL in France).

April 30, 2010 10:02 AM

Zelden said...

Well i read most of this well what i have to say is they are going to do it anyway and even if there is law against it well they have plenty of lawyers that can get around them

April 30, 2010 5:12 PM

Igor said...

@christian [April 28, 2010 9:38 AM]:

I believe Google collects SSIDs for the same reason redundancies are generally used in digital technology: error correction.

The WiFi topology is in constant change: people move in and out, buy new routers, and change their SSIDs. You need some redundancy to offset that.

For example, if you bought a new router, you'd get a new MAC address. But, if you already have a couple of computers with set up WiFi connectivity, you'd probably give your new router the same SSID the old one had, right? That's why SSID might be interesting for Google...

May 2, 2010 4:25 PM

steeleweed said...

I am shocked (but not surprised) at the irrational mental processes by which people conclude that public data is somehow private. Should I sue everybody in NYC for seeing me as I walk down the street? For hearing me as I speak? In fact, if all of you reading this will be so kind as to identify yourselves, you can expect a letter from my lawyer.

May 2, 2010 4:45 PM

Steve said...

@ Peter Fleischer

Please don't use the abbreviation DPA for the german Datenschutzbeauftragten (data protection authorities). In Germany the three letters DPA stand for Deutsche Presse-Agentur (German News Agency). The usage of DPA for the "Datenschutzbeauftragten" might be confusing

May 3, 2010 10:07 AM

bboissin said...

@steeleweed

So you don't see the difference between walking somewhere, and posting a public comment on a global media?

And yes, personality rights in Europe protects people differently than in the US, and they are not likely too change...

May 3, 2010 11:11 AM

mandawi said...

@bboissin thanks for answering correctly
@J delaney if google would have cared to announce in advance what they are planning to do - yes, i would have done so... now that they announce it when they finished already it seems a little late for that :(

May 4, 2010 10:59 AM

Post a Comment

Links to this post

Matuk.com » Google publica como obtiene datos

Google continue de pomper nos données en toute tranquilité

Google gibt bekannt welche Daten für StreetView gesammelt werden

La informació que Google recull quan fotografia els carrers per ...

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Antworten zu: Was speichert Google Streetview?

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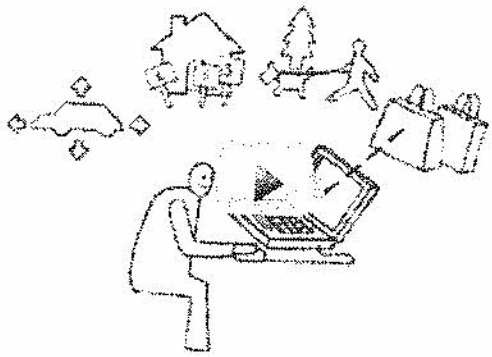
Privacy

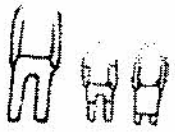


Public access only

Street View contains imagery that is no different from what you might see driving or walking down the street. Imagery of this kind is available in a wide variety of formats for cities all around the world. In select cases, Google will partner with an organization such as Disneyland Paris to schedule imagery collection of their property.

Street View images are not real time

Our images show only what our vehicles were able to see on the day that they drove past the location. Afterward, it takes at least a few months to process the collected images before they appear online. This means that images you look at on Street View could be anywhere from a few months to a few years old.



Individuals and license plates are blurred

We have developed cutting-edge face and license plate blurring technology that is applied to all Street View images. This means that if one of our images contains an identifiable face (for example that of a passer-by on the sidewalk) or an identifiable license plate, our technology will automatically blur it out, meaning that the individual or the vehicle cannot be identified. If our detectors missed

something, you can easily let us know.

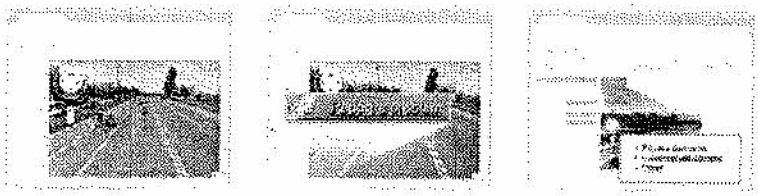
You can request removal of an image

We provide easily accessible tools allowing users to ask us to remove any images that feature inappropriate content (for example: nudity), or to remove any picture that features the user, their family, their car or their home. Below, you can review the steps to make a request.

How to Report a Concern

If you've found an image that you believe contains objectionable content, just follow these steps:

1. Locate the image in Street View.
2. Click **"Report a problem"** in the bottom-left of the image window.
3. Complete the form and click "Submit."



That's it. We'll review your report promptly.

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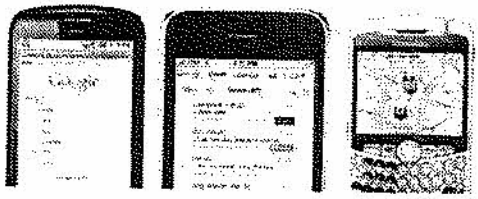
Google Mobile Blog

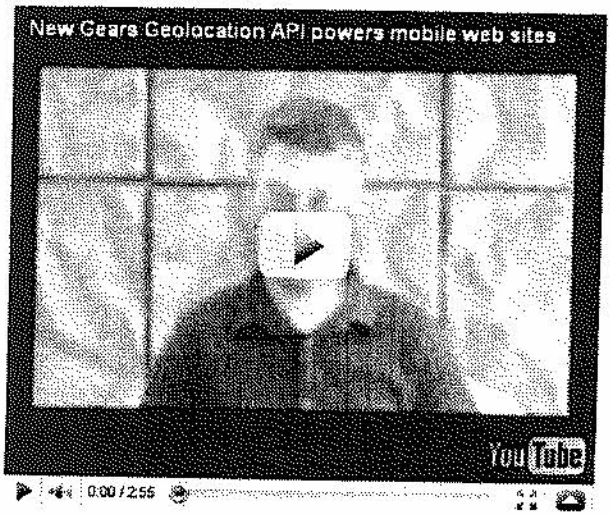


New Gears Geolocation API powers mobile web sites

Friday, August 22, 2008 12:24 AM

Imagine if web sites could provide you with customized information based on your current location, even if you don't have GPS. Today we're launching the Gears Geolocation API for mobile and desktop browsers, while two third-party developers are launching the first location-enabled web apps using this API on Windows Mobile.

One of the most popular travel sites in the Europe, lastminute.com, has now location-enabled their new mobile restaurant finder to help you find restaurants near you without requiring you to type in where you are. If you're in the UK, just go to funefood at **m.lastminute.com**, click the "Find your location" link on the home page, select the type of restaurant you want, and lastminute.com will automatically work out which neighbourhood and city you are in and find matching restaurants. This is great for both UK residents and the millions of tourists who visit each year.



Rummble is a new social discovery tool where you can recommend places to visit and see personalised recommendations from friends. Just go to **m.rummble.com**

Search
powered by Google

Google Mobile is on Twitter:

Voice invites now available for students with .edu email addresses: http://bit.ly/cp7aRX [via @googlevoice] about 2 hours ago

Out on the town this wknd & want to watch a movie? Search "movies" from Google on your mobile browser for listings, theaters & times near u about 4 hours ago

Got a ticket to @google.io? Search "mobile" to check out the many sessions about developing for the small screen http://bit.ly/bTVSsx 1 day ago

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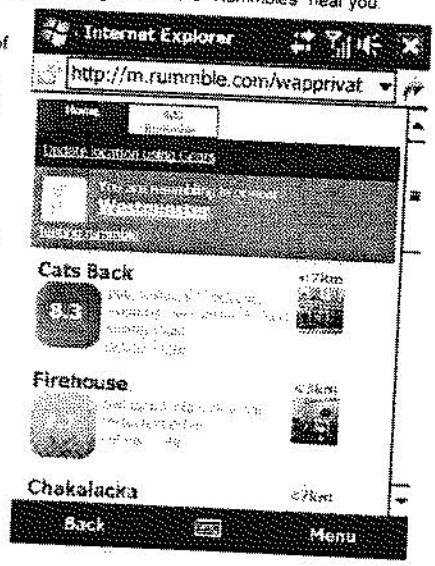
and click on the "Update location with Gears" link on the home page to see the "Rummbles" near you.



These two apps make use of the Gears Geolocation API. The API can determine your location using nearby cell-towers or GPS for your mobile device or your computer's IP address for your laptop. Google provides this service for free to both developers and users.

Gears is available on IE Mobile on mobile and Internet Explorer and Firefox on desktop. To use the location-enabled lastminute.com and Rummble web apps you will need a Windows Mobile device that supports GPS or cell-id lookup (for example the Samsung Blackjack II and HTC Touch Dual, see supported devices FAQ). We are working hard to bring Gears to more mobile platforms, such as Android and others.

Google takes your privacy very seriously. Although Gears and the Geolocation API do not record your location, you should only allow web sites that you trust to access your location. Gears will always tell you when a site wants to access your location for the first time and you can either allow or deny that site permission. Always check the privacy policy of the web site if you are in doubt as to how they may use your location information.

If you are in the UK and have a supported Windows Mobile device visit **m.lastminute.com** and **m.rummble.com** today. The first time you use the location feature you will be prompted to download and install Gears

Posted by Charles Wiles, Product Manager, Google mobile team

Permalink | Links to this post |

LABELS GEOLOCATION API, GOOGLE GEARS FOR MOBILE, WINDOWS MOBILE

11 comments:

Sarah said...

So here's a question for you. It's great that you have managed to get gears onto the mobile device, but what made Google choose the Windows Mobile devices as

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Blogger

their first choice OS to implement this on? Is it the ease of integration to the OS or just the number of users of Windows Mobile devices?

I'm curious because everyone's still making a fuss over the iPhone.

AUGUST 22, 2008 3:21 AM

Derek said...

This is great! thanks. Hope to see JavaME (for devices that support CellID lookup) and Symbian library soon :)

AUGUST 22, 2008 8:11 AM

idesbonnet said...

Any plans to implement Gears for S60 phones (Nokia N95 in particular)?

AUGUST 22, 2008 2:33 PM

Peter J. Cranstone said...

We've had the capability for over a year now. Any app can access any native (mobile) device information and send that to a Web server. We also have the capability to allow JavaScript to access local API's from the browser (Windows Mobile).

I do have one question for you: how are you making the getElementByName me and getElementbyID method calls under Windows Mobile? Without those the API won't work?

Cheers,

Peter

AUGUST 22, 2008 4:35 PM

Emily said

If you are looking to do something similar on other platforms (S60, Blackberry, J2ME...), I think Navizon also offers a geolocation API

AUGUST 22, 2008 6:11 PM

Robbie said...

Please add lyrics search to Google SMS!

AUGUST 22, 2008 7:52 PM

Malcolm Hall said...

Is the plugin for Pocket IE only?

AUGUST 23, 2008 1:58 PM

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ande said...

So will this be hooked up to the googlemaps driveby process in StreetView so that when you login and "send" your location a GoogleCar is sent out to foto you.
In this way google starts to get pictures of its most regular users up on googlemaps?? ;-)
Big bro is watching u. Maybe ;-)
Cheers
andE

AUGUST 25, 2008 7:03 AM

Jawad Shuaib said...

Location based services and mobile devices are the present and the future. Thank you for this service!

- Jawad Shuaib
founder, Shuzak.com

AUGUST 25, 2008 4:20 PM

venkat said...

Hi all,

The GeoLocation API sample in

http://code.google.com/apis/gears/samples/hello_world_geolocation.html

works perfectly fine on my desktop browser.

But, strangely, when I requested the link in the browser of windows mobile 6 emulator, it asks for the permission the the application to access Gears on the emulator and even though I granted permission, it could not fetch the location.

What should I do?

Regards,
Renuka

SEPTEMBER 7, 2008 4:40 AM

dadc said

LocationAPI for J2ME will be great but usually java does not have ability to run JavaScript and really good xhtml browser available used in any application (IMHO)

Support to access CellID in Java have only smaller percentage of newer phones

We developed mobile client in JavaME (MIDP2.0) - http://www.locdv.com where can be used limited xhtml pages with extensions which can populate form with lat/lon and other data. It's not gears but kind of GeoLocationAPI - browser with

location support.

My questions are: will (and when) be opened API to query CellID database? Google has one, Nokia as I know has one, Skyhook Wireless some open databases, ...

Are there any good implementation (or attempt) of XHTML browser (with JavaScript, CSS)?

David

OCTOBER 6, 2008 2:14 PM

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fonefood: location based restaurant table reservation mobile ...
google lanza nuevo servicio de geolocalización
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Lastminute's FoneFood gets location-aware
new geolocation api from google
lastminute's fonefood gets location-aware
lastminute.com goes mobile with google gears
APIs for Finding Location
google gears mobile location api
google gears mobile location api
Gears 0.4 is here!
Two new ways to location-enable your web apps
Mozilla Umumkan Proyek Geode

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Newer Post Home Older Post

Share Report Abuse Next Blog»

Create Blog Sign In

Google code blog

Google Location Services now in Mozilla Firefox

Thursday, April 30, 2009

With recent launches like Google Latitude and Google Toolbar with My Location, it's clear we think location-based services are useful and fun! We also want developers everywhere to be able to use location to build cool new features and applications.

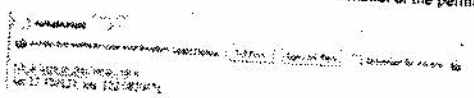
I'm pleased to announce that Google's Location Service (the same service which powers the My Location feature in many Google products), is now the default location provider in Mozilla Firefox 3.5 beta 4. This means that developers can, with users' permission, gain access to their approximate location without requiring any additional plug-ins or setting configurations. It just works!

Mozilla Firefox 3.5 beta 4 uses the W3C geolocation API, a standard being adopted by many major browsers, so you won't have to branch code in the future.

For web developers, using geolocation services in Firefox is easy! Here's a simple example to get you started:

```
<html>
<head>
<script type="text/javascript">
function displayLocation(loc) {
  var locDiv = document.getElementById("locationDiv");
  locDiv.innerHTML = "Lat: " + loc.coords.latitude + ", Lon: " +
loc.coords.longitude;
}
function getLocation() {
    navigator.geolocation.getCurrentPosition(displayLocation);
}
</script>
</head>
<body>
<a href="#" onClick="getLocation()">Click here to display location</a><br>
<div id="locationDiv"></div>
</body>
</html>
```

When your site calls `getCurrentPosition`, a drop down will ask the user permission to get his or her location. Upon acceptance of the request, the callback function you specify will run with the machine's approximate location contained in the `loc` parameter. Here's a screenshot of the permission dropdown:



We hope you find the new and useful ways to use the new geolocation capabilities of Firefox!

By Jonathan McPhie, Google Mobile Team

Permalink

Share

Labels: firefox, geolocation

3 comments:

Robert said

US Patent No. 2,525,425, entitled "system and method for defining an event based on

relationship between an object location and a user-defined zone" recently issued with broad claims covering location cased application where users are allowed access to each other location information relative to user defined zones. see claims 1 and 27 of the patent. It seems to cover Google Latitude

4/30/2009 8:40 PM

Robert said

US Patent No. 7,525,425, entitled "system and method for defining an event based on relationship between an object location and a user-defined zone" issued a few days ago with broad claims covering location cased application where users are allowed access to each other location information relative to user defined zones, see claims 1 and 27 of the patent. It seems to cover Google Latitude

4/30/2009 8:41 PM

Faiqun Moghul said

how can web master get benefit in terms of getting location of website viewers?
is it usefull for ecommerce website?

reply me

10/08/2009 8:49 AM

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SUNDANCE FILM FESTIVAL

June 1, 2009

Cellphone Locator System Needs No Satellite

By JENNA WORTHAM

BOSTON — Wanderers with phones and other devices that have GPS chips can figure out where they are using signals from satellites thousands of miles up, but those are easily blocked by walls or trees. The founders of Skyhook Wireless discovered some alternative navigational beacons: the signals coming from the Wi-Fi network in the coffee shop across the street, or the apartment upstairs.

Skyhook uses the chaotic patchwork of the world's Wi-Fi networks, as well as cell towers, as the basis for a location lookup service that is built into every iPhone, making it easier to pull up a map or find Chinese food nearby.

The start-up was founded in 2003 by Ted Morgan and Michael Shean, who traveled frequently for work and noticed the proliferation of wireless signals each time they cracked open their laptops to check their e-mail.

"We were amazed by the sheer growth of Wi-Fi," Mr. Morgan said in an interview in April at the company's offices here. "We knew there had to be a new model for mapping location using those signals."

Wi-Fi signals travel only a few hundred feet at most, so if you have a map of the Wi-Fi networks in a given area, you can use those signals to pinpoint a phone's location.

Making that map is the tricky part. When Mr. Morgan and Mr. Shean decided to pursue their idea, they started building a database of Wi-Fi access points, along with cellphone towers, which have much more powerful signals.

At first they tried paying taxi drivers to carry equipment that silently recorded the locations of networks as they roamed the streets, Mr. Morgan said. Then they hired full-time drivers to cover ground systematically, much as Google does for its Street View service. Skyhook says it has scanned areas containing 70 percent of the country's population.

"It doesn't seem realistic to drive up and down every street in the U.S.," Mr. Morgan said. "But you can."

Skyhook now employs a fleet of 500 drivers to feed a database that spans North America, Asia and Europe. The landscape of signals changes constantly as people and businesses set up and take down wireless networks, so the scanning process never ends.

Each Skyhook car contains a laptop outfitted with antennas and equipment that sends out short blasts of radio waves, called probe requests, to detect nearby cell towers and Wi-Fi networks. The system calculates the source of the signals based on their strength and the location of the car. That information is logged in the

Skyhook database, which includes more than 100 million wireless networks and 700,000 cellular towers.

Skyhook's big break came in August 2007 when Steven P. Jobs, Apple's chief executive, requested a meeting with the company. Mr. Morgan said he initially deleted Mr. Jobs's voice mail message, dismissing it as a prank, but soon realized his mistake.

Since then, Apple has sold 37 million iPhones and iPod Touches worldwide, all with Skyhook's software on them. Mr. Morgan declined to detail specifics of Skyhook's financial agreement with Apple, other than to say that his company collects a commission for each device sold.

When an iPhone owner starts up an application that involves location — like the restaurant finder Urbanspoon or the forecast service WeatherBug — the phone calculates whether it is likely to get the best and fastest information from its own GPS chip or from Skyhook's system. Skyhook says it can provide a fix on location in seconds, versus up to a minute for GPS, although Skyhook is less useful in areas with few Wi-Fi networks.

Skyhook checks a list of nearby Wi-Fi access points and cell towers against its database and triangulates the device's location within 30 to 60 feet. The company says it is not connecting to those Wi-Fi networks, just detecting their presence. (As a backup, the iPhone can also use cell tower information from Google.)

Any new access points and cell towers detected by the iPhone are automatically added to the Skyhook database, making it, in Mr. Morgan's words, "self-healing."

Apart from Apple, Skyhook also has partnerships with AOL to allow people to see the location of their chat buddies, and with Navteq, a maker of car navigation systems. Skyhook is even embedded into Eye-Fi memory cards for digital cameras, where it keeps track of where photos are taken. The company says it handles 250 million location requests a day.

Skyhook has raised $16.8 million in venture capital financing from investors including Bain Capital Ventures and Intel Capital. Mr. Morgan said it was not seeking more financing right now and was working on expanding the business. "If we do that successfully, there will be plenty of good choices for us," he said, perhaps including a public offering.

As Skyhook finds success and more gadgets become "location-aware," competitors are likely to stake out their own share of the market, said Chetan Sharma, an independent telecommunications industry researcher.

Mr. Sharma says that Mexens Technology has a system that relies on user contributions to build a signal map. And a Google service called My Location works on many phones and uses a combination of GPS, cellphone towers and Wi-Fi. A Google spokeswoman, Katie Watson, said the company collected its signal data from several sources, including phones running its software.

"Skyhook is certainly ahead of the curve with its service," Mr. Sharma said. "Whether they will sustain their momentum for the next five years remains to be seen. But they have a lot of opportunities to make it work."

Charles S. Golvin, a principal analyst at Forrester Research specializing in mobile devices and telecommunications, agreed that Skyhook was well positioned. "There are so many more phones coming to

the market that have GPS and Wi-Fi," he said.

Mr. Golvin added: "Think about all the other devices with Wi-Fi, like the Nintendo DS, Sony PSP, netbooks, digital cameras."

Mr. Morgan and Mr. Shean are trying to get Skyhook onto as many devices as they can. Programmers who want to build location-based applications for phones other than the iPhone can license its software, and several do. The company has deals to put its software into chips made by Qualcomm and Broadcom, and it plans to announce a partnership with a major manufacturer of netbooks by the end of the year.

Mr. Morgan is aware of the competition. "There's always the threat that Google or some other company will just give that information away for free," he said. To that end, the company has filed for multiple patents, including ones to protect its methodology for updating its database. Several framed patents hang on the walls of its offices.

"But we're hoping that our six years of driving around in cars, mapping out the various countries, will pay off," he said. "We've done more than 2,000 cities. They have a long way to go."

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September 8, 2011

Honorable Jon Leibowitz, Chairman
Honorable William E. Kovacic, Commissioner
Honorable J. Thomas Rosch, Commisioner
Honorable Edith Ramirez, Commissioner
Honorable Julie Brill, Commissioner
The Federal Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Dear Mr. Chairman and Members of the Commission:

We understand that the Federal Trade Commission (FTC) is currently investigating Google for possible antitrust violations.[1] We also understand that the investigation is focusing on Google's search practices, and whether it preferences its own content in its search results.[2] We would like to bring a relevant matter to your attention -- Google's use of its dominance in the search engine market to discriminate against non-Google content concerning "privacy."

Specifically, the subjective, secretive ranking criteria that Google uses on YouTube, the video sharing site the company acquired in 2006, unfairly preferences Google's own material on "privacy" over non-Google material that would be ranked higher with the use of objective, transparent criteria. Following the acquisition, Google revised the YouTube search criteria such that Google's subjective "relevance" rankings became the default for returning search results. As a consequence, Google's own online videos on "privacy" are more likely to be ranked highly, and therefore viewed by Internet users, than if the original search criteria had remained as the default. Over time, it has also become increasingly difficult to organize search results on YouTube using objective criteria.

This problem came to our attention as a result of EPIC's (the "Electronic Privacy Information Center") efforts to promote access to online videos on privacy-related topics. Beginning in 2006, EPIC created a web page to make available privacy-related videos of interest to the general public.[3] The videos for the EPIC archive were gathered from news

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[1] "Supporting Choice, Ensuring Economic Opportunity," Official Google Blog, June 24, 2011, *available at* http://googleblog.blogspot.com/2011/06/supporting-choice-ensuring-economic.html.
[2] *See* Miguel Helft, "Google Confirms FTC Antitrust Inquiry," The New York Times, June 24, 2011, *available at* http://bits.blogs.nytimes.com/2011/06/24/google-confirms-f-t-c-antitrust-inquiry/; Nina Gregory, "Is Google Playing Fair With Its Search Results?" National Public Radio, June 27, 2011, *available at* http://www.npr.org/2011/06/27/137448879/ftc-searches-google-in-antitrust-investigation.
[3] "EPIC Video Archive," *available at* http://epic.org/privacy_video/.

sources, documentaries, TV programs, interviews with political leaders, and privacy experts. Initially, many of these videos were highly ranked on YouTube, which was often where we looked to find useful content.

For example, the first post on the EPIC Video Archive, a very disturbing cell phone recording of a student being tased has, as of today,1,711,845 hits and 4,378 likes. Yet this video, prominently featured at the EPIC site, will not be found on YouTube using the current Google default ranking system and the search term "privacy." However, Google's own video content occupies positions #4, #5, #9 and #10 for a search today on YouTube with the search term "privacy."[4]

As part of the FTC's investigation into Google for potential antitrust violations, we recommend that the Commission investigate the extent to which Google's rankings preference its own content and disfavor the content of others. Our concern is not primarily about anti-competitive market practices; it is about public access to information made available on the Internet.

Factual Background

Google's video service business practices impact large numbers of consumers, as YouTube is the third most popular site on the Internet,[5] with over 2 billion hits per day.[6] More than 13 million hours of video were uploaded to YouTube in 2010 and 35 hours of video are uploaded.[7] Even YouTube's mobile site gets over 100 million views a day.[8]

The specific reason to address this concern now in the context of the current review is the fact that Google now controls the search rankings on YouTube and therefore exercises enormous influence over the availability and popularity of videos made available over the Internet. On October 9, 2006, Google announced it had bought

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[4] We note that similar practices, *i.e.* the preferencing of the search provider's content, may occur with other search services and other search companies. For example, using Google search and the search string "privacy" produced a ranking for the "Google Privacy Center" at #3 while using "Bing" finds "Microsoft Online Privacy Notice Highlights" at #2, a listing that does not appear on the first screen of Google search. Both companies appear to be favoring their own content over the content in the search rankings they provide. We believe that the Commission could also look more broadly at search rankings across the industry. But the focus of this letter is specifically on the impact that Google's acquisition of YouTube had on the ranking of privacy-related video content on the Internet, and therefore on the public's ability to get access to this information.

[5] Brad McCarty, "Alexa: YouTube Surpasses Yahoo! As the Internet's Third Most Visited Site," August 23, 2010, *available at* http://thenextweb.com/socialmedia/2010/08/23/alexa-shows-youtube-claiming-3-most-popular-site-over-yahoo-are-browsing-habits-changing/.

[6] Jeremy Scott, "25 jaw-dropping YouTube facts, figures, and statistics," May 2011, ReelSeo, *available at* http://www.reelseo.com/youtube-statistics/

[7] YouTube Statistics, *available at* http://www.youtube.com/t/press_statistics.

[8] *Id.*

YouTube for $1.65 billion dollars in stock.[9] With regard to the acquisition, Eric Schmidt, Google CEO, stated: "The YouTube team has built an exciting and powerful media platform that complements Google's mission to organize the world's information and make it universally accessible and useful. . . "[10] At the time Google bought YouTube, it had been in operation for less than a year but already had 50 million users around the world.[11]

At the time Google acquired YouTube, YouTube's search results were organized by the objective criteria of "hits" and "viewer rankings." Both of these are objective criteria and easy to verify. "Hits," for example, is simply the number of times a particular video was viewed, at least in part, and an ordering by "hits' would place those videos that had been viewed a lot above those videos that had been viewed fewer times. "Viewer rankings" reflect the five-to-one user star rating that users assign to the videos. Searches ordered by "viewer rankings," for example, would place a video that received four stars on average above a video that received three stars on average.

It is also significant that either rating system could be easily verified by the user, *i.e.* the users could independently verify, by observing the hits and viewer rankings associated with each video entry, the accuracy of Google's search ordering.

After Google acquired YouTube, Google transformed the search defaults for YouTube and adopted the subjective criteria of "relevance," which uses Google's proprietary search algorithm. While the original rankings were still available to users who went back to restore the defaults, this "nudge" in the settings caused a profound change in the search ordering and therefore the availability of video on the Internet.

For example, in 2007, after the acquisition, a search on YouTube for "privacy" (automatically sorted by "relevance") returned Google content (a PR video that described particular Google business practices) as the top result.[12] See Appendix 1. This Google video only has a 3.5 star rating by users. However, when the search results are sorted instead by "rating," non-Google material (including a documentary video of freedom of speech, the right to privacy, and innocence from torture) is at the top of the list of results for a search for "privacy,"[13] and the top result has a five star ranking by users. See Appendix 2.

Google continues to preference its own content on YouTube . As of today, a search on YouTube for "privacy" (automatically sorted by "relevance") returns five

---

[9] "Google to Acquire YouTube for $1.65 Billion in Stock," Google, October 9, 2006, *available at* http://www.google.com/press/pressrel/google_youtube.html.
[10] *Id.*
[11] Andrew Ross Sorkin and Jeremy Peters, "Google to Acquire YouTube for 1.65 Billion," The New York Times, October 9, 2006, *available at* http://www.nytimes.com/2006/10/09/business/09cnd-deal.html.
[12] Marc Rotenberg, "The Case Against the Google Doubleclick Merger," Center for Internet and Society, Stanford Law School, November 19, 2007, *available at* http://cyberlaw.stanford.edu/node/5565.
[13] *Id.*

Google videos in the top ten results.[14] See Appendix 3. All of the videos are promotional videos developed by the company, describing its own services and business practices. When the search is sorted instead by "user rating," there is no Google content in the top ten search results.[15] See Appendix 4. Instead, the videos include film documentaries, news reports, and music videos. And when the search is sorted by "view count," there is only one Google video in the top ten search results.[16] See Appendix 5.

By way of further illustration, the top result in the "user rankings" search has 3,106 likes, 9 dislikes, and 108,546 views.[17] See Appendix 6. The first result in the "view count" search has 12,430,424 views, 7,715 likes, and 6,196 dislikes.[18] See Appendix 7. In contrast, the Google video ranked fourth on the default "relevance" search has 1,775,613 views, 546 likes, and 227 dislikes.[19] See Appendix 8.

Therefore, Google's subjective "relevance" algorithm ranks the Google produced video higher than the other two videos, even though the Google video has 1/7 the number of views of the top viewed video, ¼ the number of likes, and 25 times as many dislikes as the top ranked video. The default rank ordering established by Google for YouTube clearly preferences Google's own content.

In order to sort search results by anything other than "relevance," the user has to choose from a drop down list, and can no longer see the other options listed at the top of the screen as they could in 2007. Google has also eliminated with the straightforward star rating system, replaced it with the number of likes and dislikes, making it easier still to manipulate search outcomes.

Google's Practice of Preferencing its Own Content on YouTube Constitutes an Unfair and Anticompetitive Practice

The FTC has the authority to review antitrust issues under Section 5 of the Federal Trade Commission Act (FTCA), which proscribes, "unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce."[20] According to FTC Commissioner Kovacic, "[c]ourts have

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[14] YouTube, "Search Results for Privacy," July 11, 2011, *available at* http://www.youtube.com/results?search_query=privacy&aq=f.
[15] YouTube, "Search Results for Privacy," sorted by "user rating," July 11, 2011, *available at* http://www.youtube.com/results?search_query=privacy&aq=f.
[16] YouTube, "Search Results for Privacy," sorted by "view count," July 11, 2011, *available at* http://www.youtube.com/results?search_query=privacy&aq=f.
[17] YouTube, "Spieling Peter Pan Disneyland," viewed July 11, 2011, *available at* http://www.youtube.com/watch?v=Y4vu4HNJi3I.
[18] YouTube, "Woman Shows Face After Chimp Attack," viewed July 11, 2011, *available at* http://www.youtube.com/watch?v=a3DeJjHAz8I.
[19] YouTube, "Google Search Privacy: Plain and Simple," viewed July 11, 2011, *available at* http://www.youtube.com/watch?v=kLgJYBRzUXY.
[20] 15 U.S.C.A. § 45 (2010).

interpreted Section 5 as enabling the FTC to prosecute conduct that violate the letter of the antitrust statutes . . . and to proscribe behavior that contradicts their spirit."[21]

YouTube search results are organized using the subjective secret Google "relevance" algorithm by default. These search results preference Google content over non-Google content, even when this content has fewer views and lower ratings by objective standards. Other objective methods of organizing YouTube search results yield more results with non-Google content. It is not obvious to the user how to change the default subjective "relevance" setting to use the more objective criteria of "user rating" or "view count".

Therefore, Google has used its dominance in the search algorithm marketplace to preference its own content in search results. This business practice leads to Google's domination in the marketplace of content and ideas, as it gives Google the limitless ability to not only preference its own content but to disfavor the content of others, including groups or individuals that have differing views from Google on such topics as privacy.

Request for Investigation

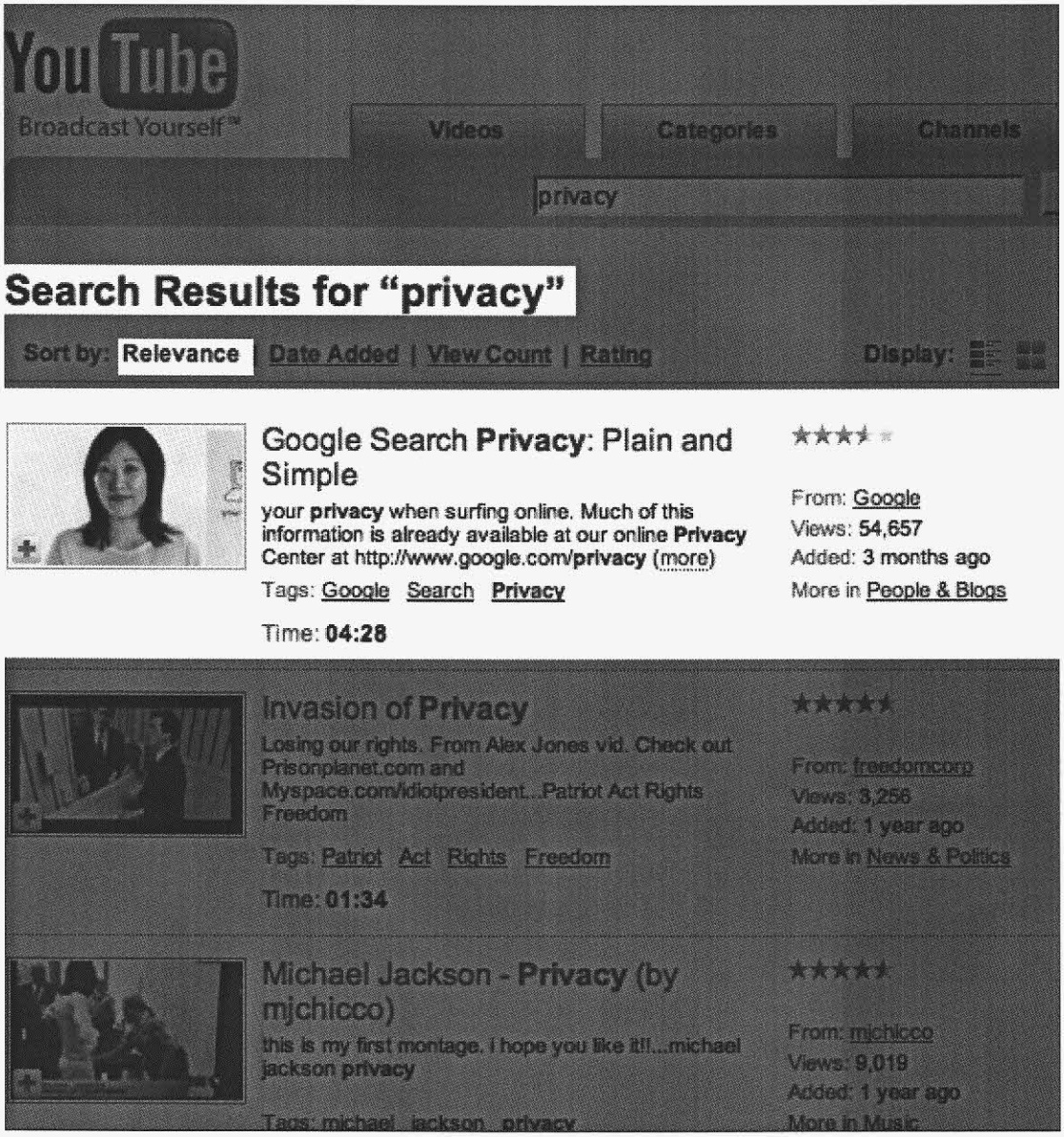
EPIC respectfully requests that the Commission, as part of its investigation into Google for potential antitrust violations, investigate the extent to which Google's rankings preference its own content over information that is more newsworthy, more significant, and in fact of greater interest to Internet users. Google's dominance of the search marketplace should not influence the marketplace of information and ideas to Google's advantage.

Sincerely,

Marc Rotenberg, EPIC Executive Director
Sharon Gott Nissim, EPIC Consumer Protection Counsel
David Jacobs, EPIC Consumer Protection Fellow
ELECTRONIC PRIVACY INFORMATION CENTER
1718 Connecticut Ave. NW Suite 200
Washington, DC 20009
202-483-1140 (tel)
202-483-1248 (fax)

[21] KOVACIC ET AL., ANTITRUST LAW IN PERSPECTIVE: CASES, CONCEPTS AND PROBLEMS IN COMPETITION POLICY 970 (Thomson West 2002).

Appendix 1:

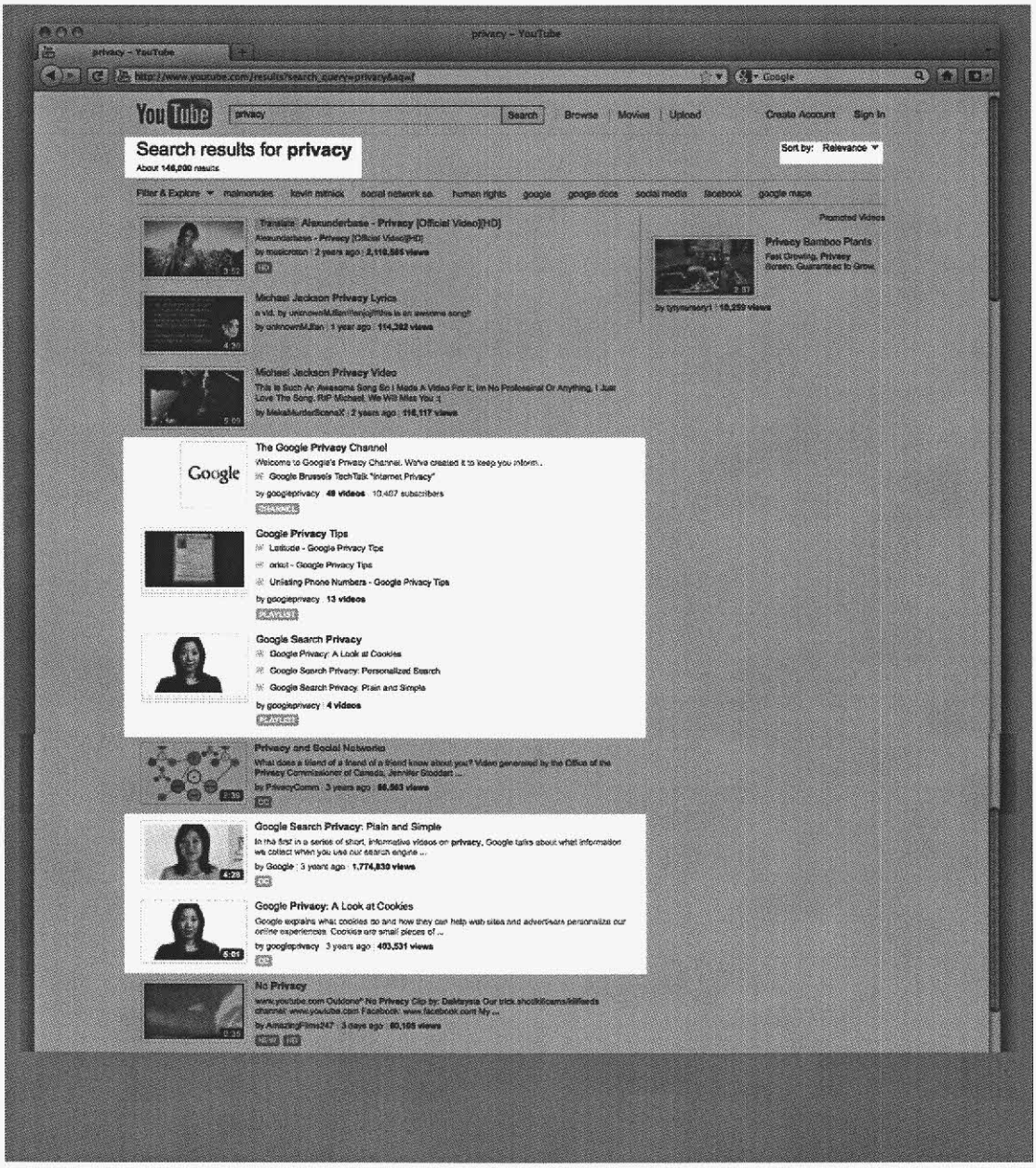


Source: Marc Rotenberg, "The Case Against the Google Doubleclick Merger," Center for Internet and Society, Stanford Law School, November 19, 2007, *available at* http://cyberlaw.stanford.edu/node/5565.

Appendix 2

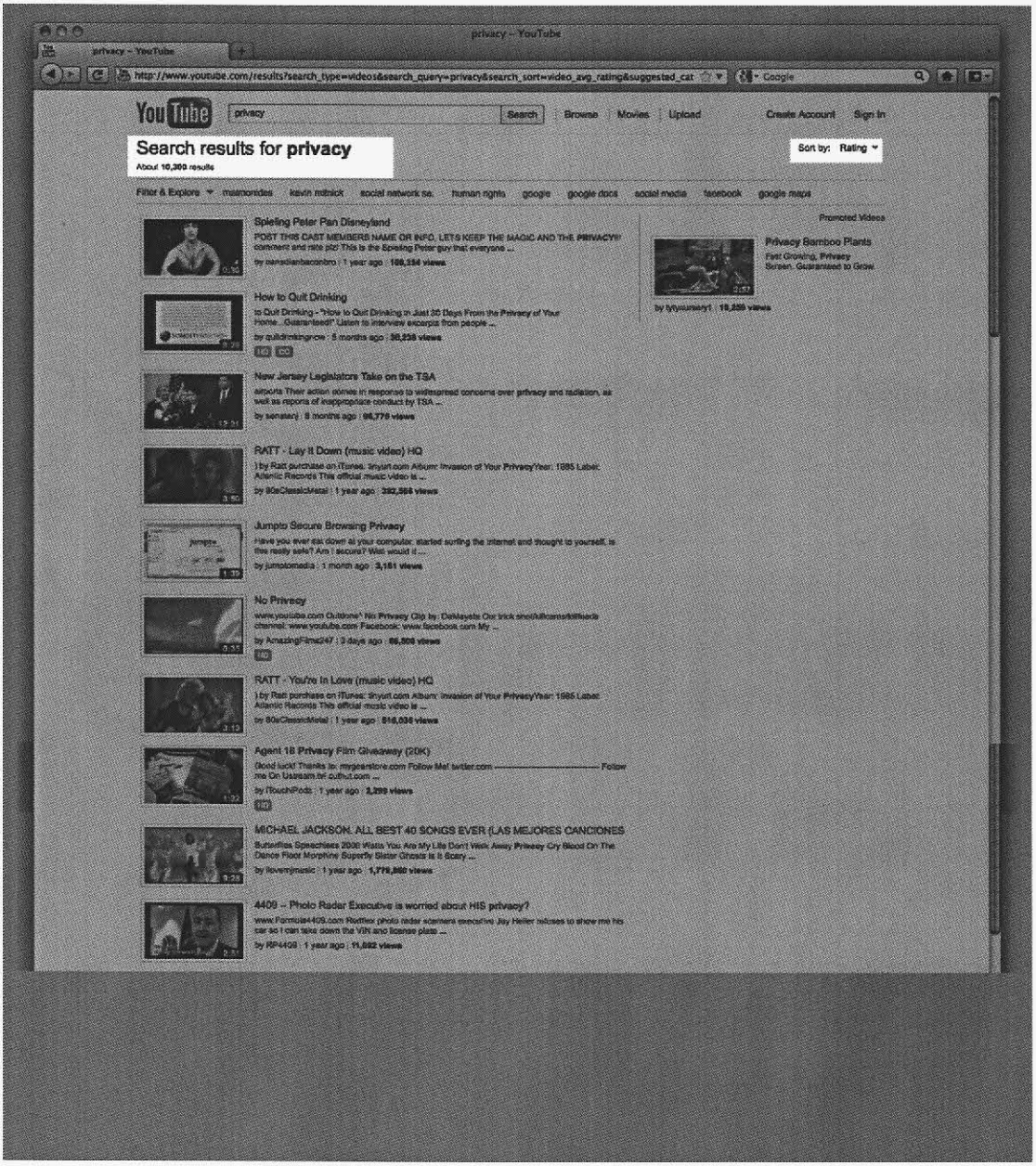
Source: Marc Rotenberg, "The Case Against the Google Doubleclick Merger," Center for Internet and Society, Stanford Law School, November 19, 2007, *available at* http://cyberlaw.stanford.edu/node/5565.

Appendix 3



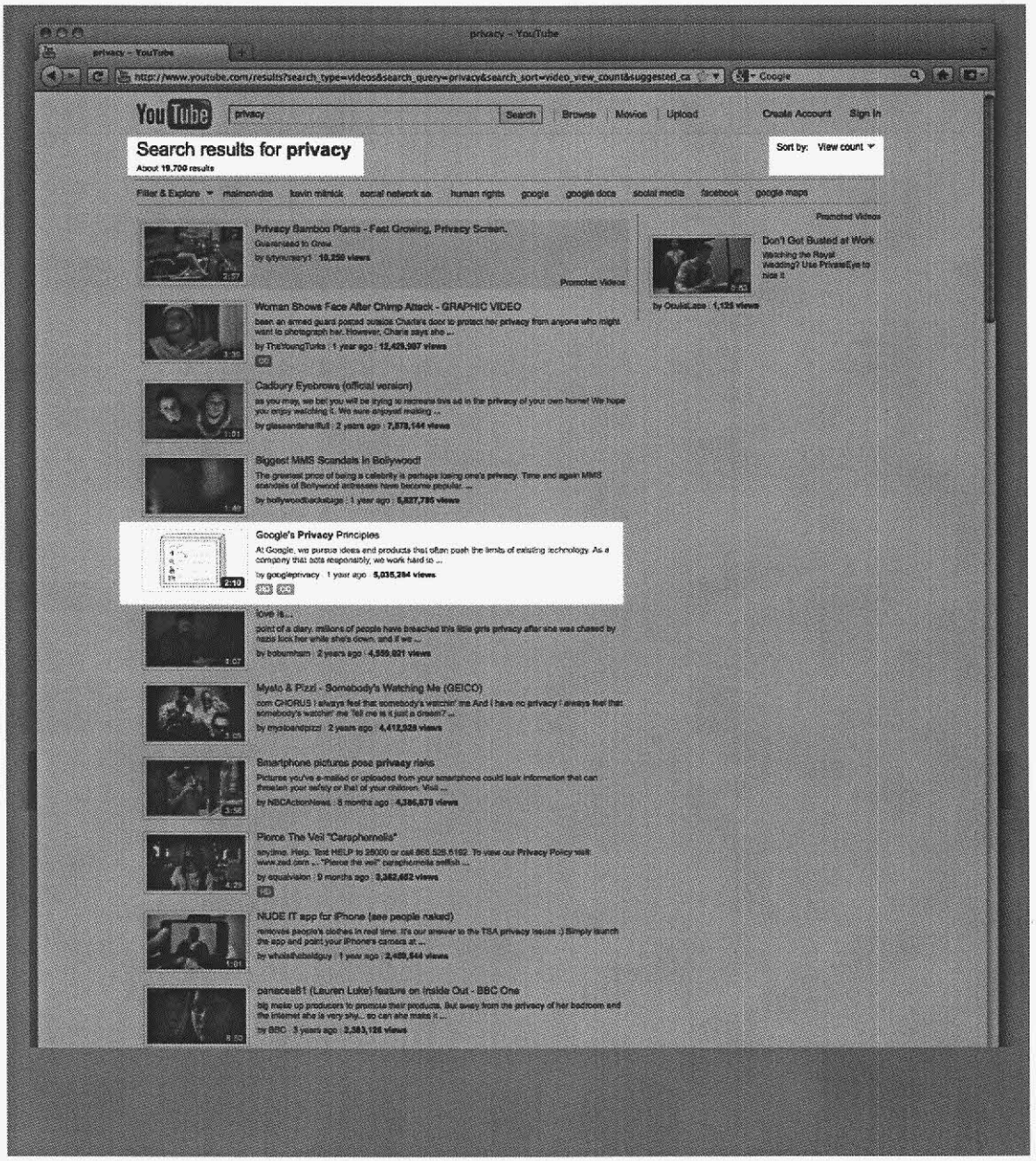
Source: YouTube, "Search Results for Privacy," July 11, 2011, *available at* http://www.youtube.com/results?search_query=privacy&aq=f.

Appendix 4



Source: YouTube, "Search Results for Privacy," sorted by "user rating," July 11, 2011, *available at* http://www.youtube.com/results?search_query=privacy&aq=f.

Appendix 5



Source: YouTube, "Search Results for Privacy," sorted by "view count," July 11, 2011, *available at* http://www.youtube.com/results?search_query=privacy&aq=f.

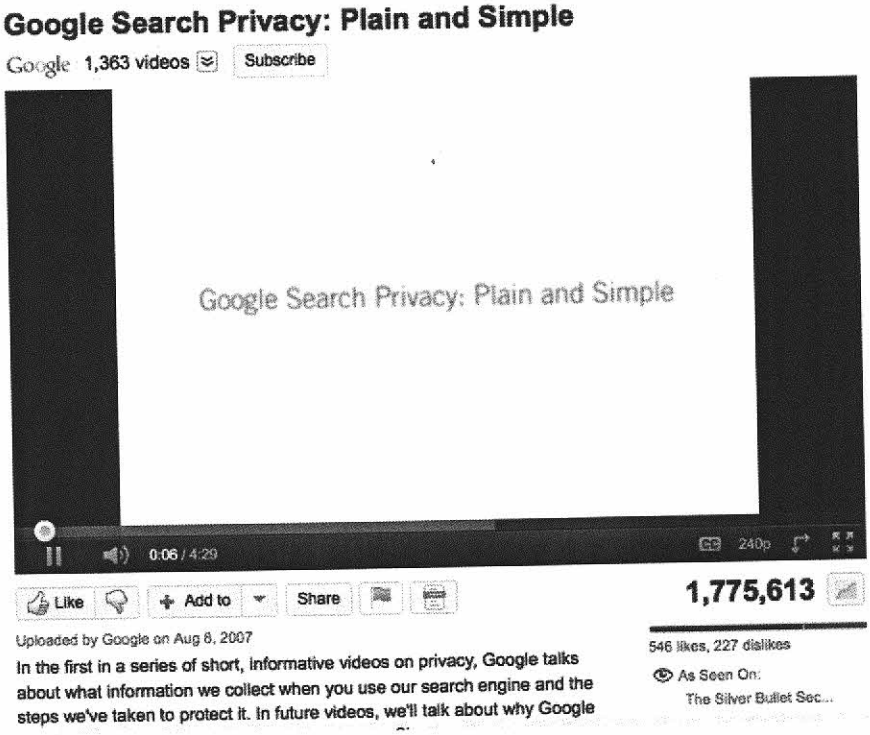
Appendix 6

Source: YouTube, "Spieling Peter Pan Disneyland," viewed July 11, 2011, *available at* http://www.youtube.com/watch?v=Y4vu4HNJi3I.

Appendix 7

Source: YouTube, "Woman Shows Face After Chimp Attack," viewed July 11, 2011, *available at* http://www.youtube.com/watch?v=a3DeJjHAz8I.

Appendix 8



Source: YouTube, "Google Search Privacy: Plain and Simple," viewed July 11, 2011, *available at* http://www.youtube.com/watch?v=kLgJYBRzUXY.

Luib, Gregory

From: (b)(7)(D)
Sent: Tuesday, December 18, 2012 1:26 PM
To: Renner, Christopher; Su, Henry; Tucker, Darren; Slater, Abigail A.; Kimmel, Lisa; Luib, Gregory
Subject: The EC

(b)(3):6(f),(b)(4)

Best regards,
(b)(7)(D)

*****

MLex

Google antitrust settlement on track in Europe

18 Dec 12 | 17:42 GMT

Author: Ana Rita Rego, Matthew Newman and Lewis Crofts

- **IN BRIEF**
  Google's executive chairman Eric Schmidt met EU competition chief Joaquín Almunia this afternoon, advancing discussions on settling the EU's probe of the search giant. The regulator and Google have "reduced our differences regarding possible ways to address" the competition concerns, the commission said. Formal remedies are expected next month.

Brussels - Google's executive chairman Eric Schmidt met EU competition chief Joaquín Almunia this afternoon, advancing discussions on settling the EU's probe of the search giant. The regulator and Google have "reduced our differences regarding possible ways to address" the competition concerns, the commission said.

Joaquin Almunia said today in a statement that he expected Google to come forward with a detailed text of its formal commitments to solve problems on search ranking, scraping content and advertising agreements in January.

The commission will then assess the formal remedies and publish them for comment. At that stage the numerous companies which have complained about Google's conduct, such as Microsoft, Foundem and Hot-maps, will have a chance to comment on the draft solutions.

The meeting today between Almunia and Schmidt lasted over an hour and also featured some of the key antitrust staff in the commission's competition directorate.

It was followed by a lunch on the 13th floor of the European Commission's headquarters, an event not systematically accorded to all visitors.

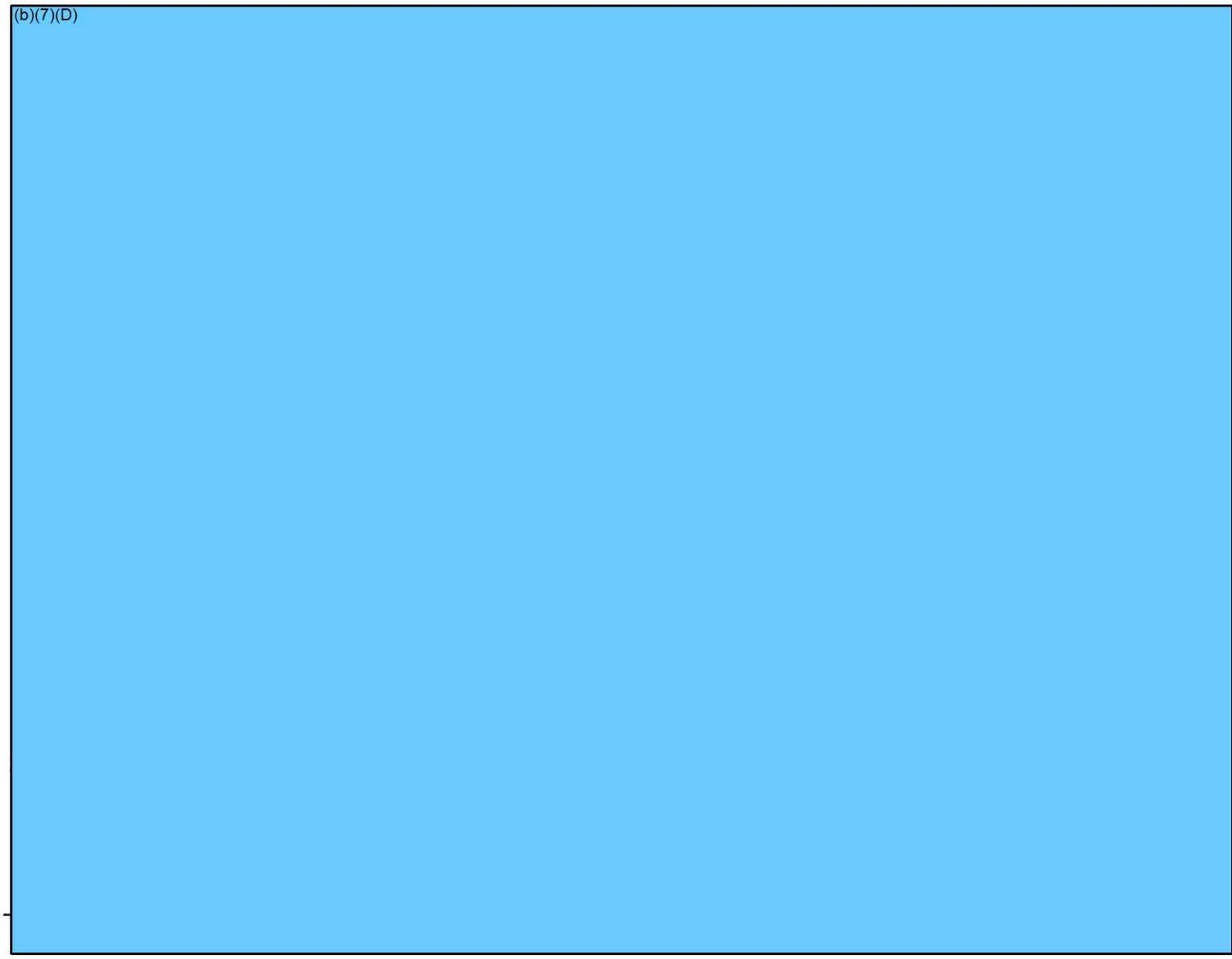
Google declined to comment on the meeting.

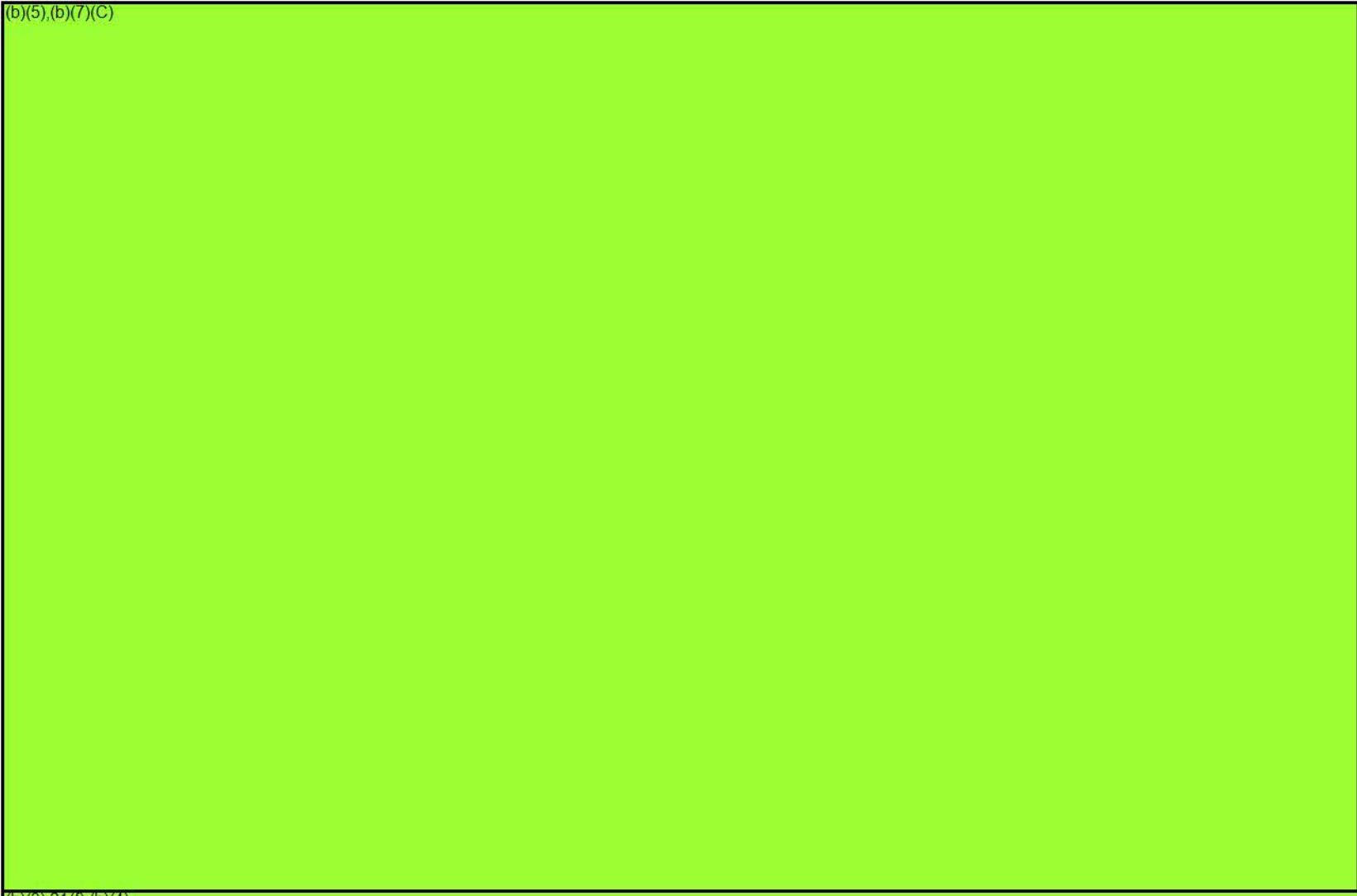
The meeting comes as the US Federal Trade Commission is said to be posied to conclude its own investigation of the search-giant.

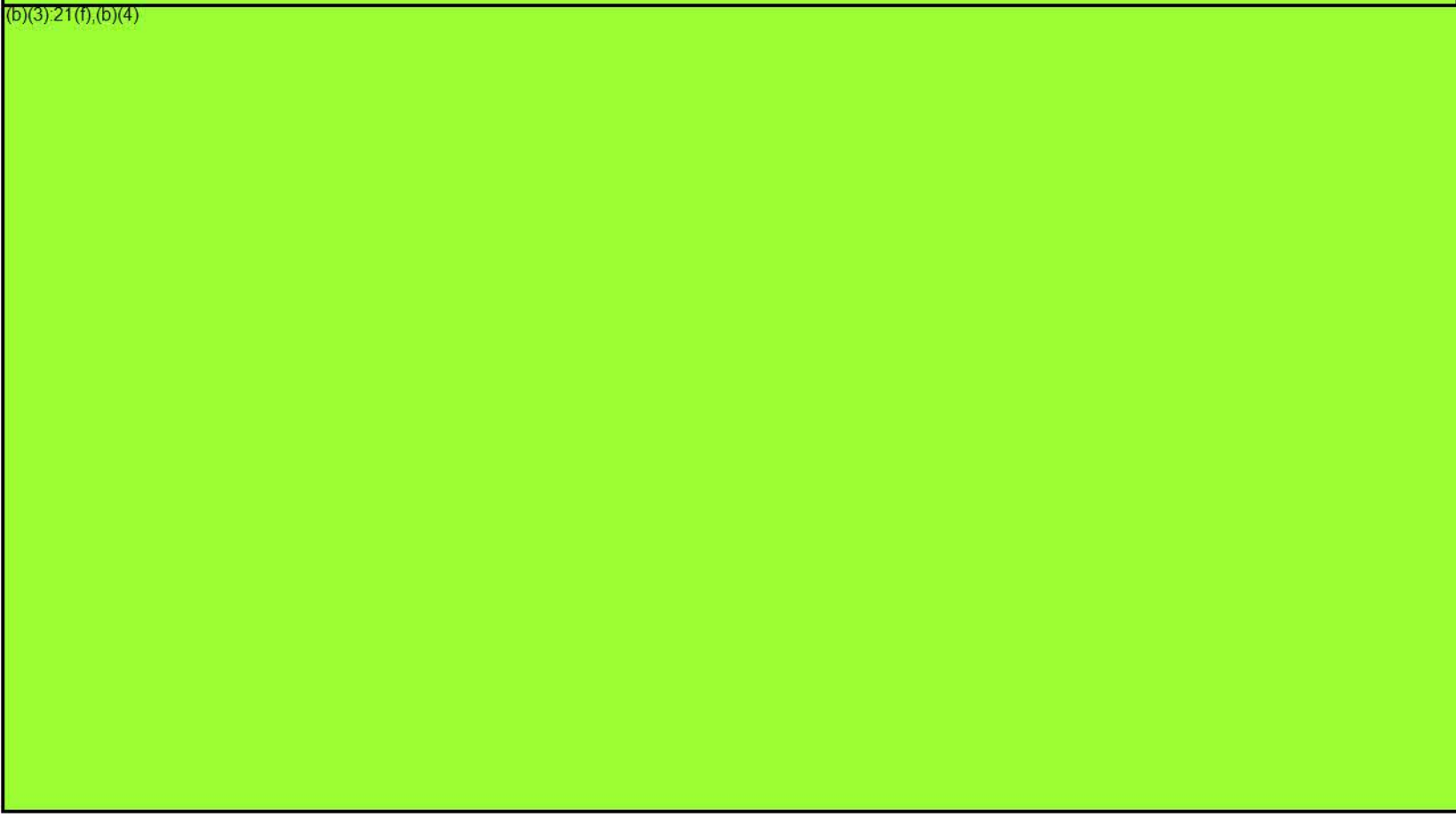
While Google may commit to making changes over the way it runs advertising campaigns and takes content from other sites, the FTC is unlikely to take action on the key concern: the alleged manipulation of search results.

That issue will likely be left to the European Commission to pursue.

(b)(7)(D)




(b)(5),(b)(7)(C)


(b)(3):21(f),(b)(4)

From: (b)(7)(C)

Sent: Thursday, October 6, 2011 3:27 PM

To: (b)(3):21(f)

Subject: RE: Confidential Investigation - (b)(3):21(f)

Dear (b)(3):21(f)

It was a pleasure speaking with you. As requested, I am providing some information regarding the Commission's policy on confidential information (b)(3):21(f) in the Commission's non-public investigation into Google Inc. The Federal Trade Commission Act and the Commission's Rules of Practice provide protection for information gathered in confidential investigation interviews. All information submitted to the Commission in an investigation, a purpose of which is to determine whether any person may have violated the law, is treated as confidential and is exempt from disclosure under the Freedom of Information Act under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). Whether confidential information is submitted voluntarily or pursuant to compulsory process, the Commission may not disclose it except in the limited circumstances described in Section 21 of the FTC Act, 15 U.S.C. § 57b-2. *See*Rule 4.10(d), 16 C.F.R. § 4.10(d); 46 FR 26284, 26291 (1981).

(b)(7)(A)

I propose scheduling the telephone interview for 1:00 p.m. or 4:00 p.m. (EST) on any of the following days: October 11, 14, 17, 18, or 24th. If there is a more convenient time for (b)(3):21(f) the FTC is more than willing to accommodate. For scheduling purposes coordinating with the states is not necessary, I will invite them once we have nailed down a time.

Don't hesitate to contact me with any questions or concerns.
Thank you again for your consideration in this matter,

(b)(7)(C)

(b)(3):21(f),(b)(7)(C)

(b)(3):21(f),(b)(5),(b)(7)(C)

Duplicate

Mischler, Erin

From: Vladeck, David
Sent: Tuesday, November 27, 2012 4:27 PM
To: (b)(7)(C)
Subject: FW: Outline of Google settlement discussions

FYI. The David in the email is "David Drummond" of Google. D

(b)(5)

(b)(5),(b)(7)(C)

From: Levitas, Pete
Sent: Wednesday, November 28, 2012 5:37 PM
To: Shelanski, Howard; Vladeck, David; (b)(7)(C); Shonka, David C.
Cc: Feinstein, Richard; Wilkinson, Beth; Prewett, Cecelia; (b)(7)(C); JDL; (b)(7)(C); (b)(7)(C); Blank, Barbara; (b)(7)(C); (b)(7)(C)
Subject: Google settlement discussions

Hello everyone – we are going to start our settlement discussions with Google. (b)(5),(b)(7)(C)

(b)(5),(b)(7)(C)

Mischler, Erin

From: Blank, Barbara
Sent: Thursday, September 01, 2011 10:25 AM
To: (b)(6),(b)(7)(C)
Subject: (b)(3):21(f),(b)(7)(D)
Attachments:

Categories: Red Category

Also this link

(b)(7)(D),(b)(7)(E)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Wednesday, December 28, 2011 4:58 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(5)

(b)(6),(b)(7)(C)

Do you have time to help me find some (b)(5) (b)(5)
(b)(5),(b)(7)(D)
(b)(5),(b)(7)(D) We can talk tomorrow if you're in the office and have any questions.

Thanks,
(b)(6),(b)(7)(C)

From: Blank, Barbara
Sent: Friday, December 16, 2011 3:41 PM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(5)

(b)(3):21(f),(b)(5),(b)(7)(D)

(b)(3):21(f),(b)(7)(D),(b)(7)(E)

From: Blank, Barbara
Sent: Friday, December 16, 2011 3:30 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(5)

(b)(3):21(f),(b)(5),(b)(7)(D)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Friday, April 27, 2012 2:36 PM
To: (b)(6),(b)(7)(C)
Subject: teleworking

Started: 8:51
(b)(3):21(f),(b)(5),(b)(6),(b)(7)(C),(b)(7)(D)
Worked until 2:30 w/ 30 min lunch

Mischler, Erin

From: Westman-Cherry, Melissa
Sent: Wednesday, June 06, 2012 8:23 AM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(3):21(f),(b)(5),(b)(7)(D)

Excellent!. Thanks (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Tuesday, June 05, 2012 5:07 PM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE: (b)(3):21(f),(b)(5),(b)(7)(D)

Folks,

Good news: (b)(3):21(f),(b)(5),(b)(7)(D)
(b)(3):21(f),(b)(5),(b)(7)(D)

Thanks!
(b)(6),(b)(7)(C)

From: Westman-Cherry, Melissa
Sent: Tuesday, June 05, 2012 3:25 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(3):21(f),(b)(5),(b)(7)(D)

That works for me!

From: (b)(6),(b)(7)(C)
Sent: Tuesday, June 05, 2012 3:19 PM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: (b)(3):21(f),(b)(5),(b)(7)(D)

Team,

(b)(3):21(f),(b)(5),(b)(7)(D)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Friday, June 29, 2012 4:05 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(5)
Attachments:

(b)(6),(b)(7)(C)

Here are a couple of sources you could use.

(b)(3):21(f),(b)(5),(b)(7)(D)

Hope this helps.

(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Friday, June 29, 2012 2:45 PM
To: (b)(6),(b)(7)(
Subject: (b)(5)

(b)(6),(b)(7)(C)

I was hoping you could help me. (b)(5)

(b)(5)

Thanks,

(b)(6),(b)(7)(C)

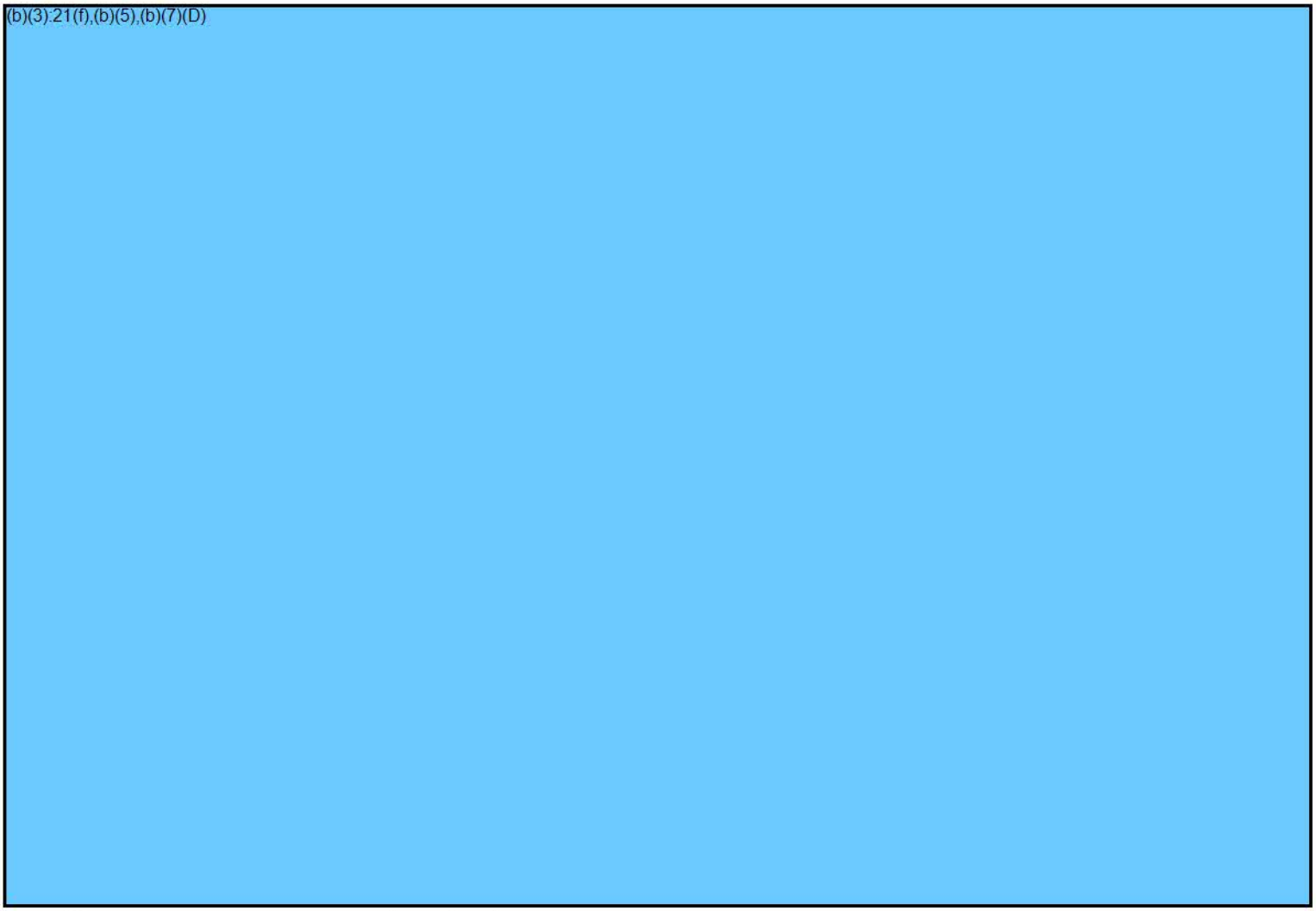
Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Thursday, July 19, 2012 6:06 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(5),(b)(7)(D)

Thanks. I have to go to an event, but will be back in a couple of hours to incorporate this. I'll send you questions in the morning.

From: (b)(6),(b)(7)(C)
Sent: Thursday, July 19, 2012 5:49 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(5),(b)(7)(D)

(b)(3):21(f),(b)(5),(b)(7)(D)



I will be out tomorrow. Have a good weekend.

(b)(6),(b)(7)(C)

Mischler, Erin

From: Blank, Barbara
Sent: Monday, July 23, 2012 4:34 PM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(5)

Thanks so much, (b)(6), (b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, July 23, 2012 4:34 PM
To: Blank, Barbara; (b)(6),(b)(7)(C)
Subject: RE: (b)(5)

Here's what I found:

(b)(3):21(f),(b)(5),(b)(7)(D)

Let me know anywhere else I should look.
Thanks,
(b)(6), (b)(7)(C

From: Blank, Barbara
Sent: Monday, July 23, 2012 4:11 PM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(5)

(b)(5),(b)(6),(b)(7)(C)

Not Responsive

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Tuesday, July 24, 2012 1:25 PM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(5),(b)(7)(D)

(b)(6), helped me find these docs, so I thought I'd send along their locations:

(b)(3):21(f),(b)(5),(b)(6),(b)(7)(C),(b)(7)(D)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 02, 2012 10:48 AM
To: Blank, Barbara
Subject: RE: (b)(5),(b)(6)

Tracking:

Recipient	Delivery
Blank, Barbara	Delivered: 8/2/2012 10:48 AM

No worries- I will make sure it reflects your changes.

From: Blank, Barbara
Sent: Thursday, August 02, 2012 10:48 AM
To: (b)(6),(b)(7)(C)
Subject: RE: (b)(5)

Oops, I missed a few words in my first go-round. Thanks. ☺

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 02, 2012 10:47 AM
To: Blank, Barbara
Subject: RE: (b)(5)

Almost- the first one looks like this.

(b)(3):21(f),(b)(5)

From: Blank, Barbara
Sent: Thursday, August 02, 2012 10:41 AM

(b)(5),(b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 02, 2012 10:39 AM
To: Blank, Barbara
Subject: RE: (b)(5)

(b)(3):21(f),(b)(5)

Does this need to be changed?

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 5:52 PM
To: (b)(6),(b)(7)(C)
Subject: Re: (b)(5)

(b)(5) Let's talk tomorrow when I'm in the office.

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 05:26 PM
To: (b)(6),(b)(7)(C)
Subject: (b)(5)

(b)(6),(b)(7)(C)

Thanks for the neat assignment. This is what I have found thus far. Sorry it is a little sloppy. I will continue to work on it tomorrow.

(b)(6),(b)(7)(C)

(b)(3):6(f),(b)(3):21(f),(b)(4),(b)(5),(b)(7)(D)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 12:12 PM
To: (b)(6),(b)(7)(C)
Subject: RE: sorry had to do some digging but here are some examples

Tracking:

Recipient	Delivery
(b)(6),(b)(7)(C)	Delivered: 8/16/2012 12:12 PM

My pleasure.

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 12:10 PM
To: (b)(6),(b)(7)(C)
Subject: RE: sorry had to do some digging but here are some examples

Thanks! This is super helpful.

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 12:03 PM
To: (b)(6),(b)(7)(C)
Subject: sorry had to do some digging but here are some examples

(b)(3):21(f),(b)(5),(b)(7)(D)

Mischler, Erin

From: Blank, Barbara
Sent: Wednesday, September 05, 2012 7:05 PM
To: (b)(6),(b)(7)(C)
Subject: Fw: (b)(5)

(b)(6),(b)(7)(C) - can you please help david with what he wants tomorrow at some point? (b)(5) (b)(5),(b)(7)(D) You can just send him stuff directly; thanks so much, (b)(6),(b)(7)(C)

From: Sieradzki, David L.
Sent: Wednesday, September 05, 2012 06:30 PM
To: Blank, Barbara
Cc: Green, Geoffrey
Subject: (b)(5)

Barbara,

(b)(3):21(f),(b)(5),(b)(7)(D)

I appreciate it – thanks!

--David

David L. Sieradzki
Attorney, Office of General Counsel
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
office: 202.326-2092
fax: 202.326.2477
mobile: (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Tuesday, September 04, 2012 1:07 PM
To: Blank, Barbara; (b)(6),(b)(7)(C)
Subject: RE: Google

(b)(3):21(f),(b)(5),(b)(7)(D)

From: Blank, Barbara
Sent: Tuesday, September 04, 2012 9:59 AM
To: (b)(6),(b)(7)(C)
Subject: FW: Google

From: Levitas, Pete
Sent: Tuesday, September 04, 2012 12:58 PM
To: Seidman, Mark; Blank, Barbara; Green, Geoffrey
Subject: FW: Google

?

From: Tucker, Darren
Sent: Tuesday, September 04, 2012 12:44 PM
To: Feinstein, Richard; Levitas, Pete
Cc: Tucker, Darren
Subject: Google

Rich, Pete,

(b)(5),(b)(7)(D)

Darren

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Thursday, September 06, 2012 9:58 AM
To: Sieradzki, David L.
Subject: Request for Materials
Attachments: (b)(3):21(f),(b)(5),(b)(7)(D)

Tracking:

Recipient	Delivery	Read
Sieradzki, David L.	Delivered: 9/6/2012 9:58 AM	Read: 9/6/2012 12:34 PM

Mr. Sieradzki,

In response to your request of Barbara Blank, (b)(3):21(f),(b)(5)
(b)(3):21(f),(b)(5),(b)(7)(D)

Thank you,
(b)(6),(b)(7)(C)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Tuesday, September 25, 2012 9:58 AM
To: (b)(6),(b)(7)(C)
Subject: RE: to do list

See you then.

From: (b)(6),(b)(7)(C)
Sent: Tuesday, September 25, 2012 9:57 AM
To: (b)(6),(b)(7)(C)
Subject: RE: to do list

That would be great.

From: (b)(6),(b)(7)(C)
Sent: Tuesday, September 25, 2012 9:57 AM
To: Sajewski, (b)(6),(b)(7)(C)
Subject: RE: to do list

How about 10:30? Want to meet up here? Thanks, (b)(6), (b)(7)(C)

> **From:** (b)(6),(b)(7)(C)
> **Sent:** Tuesday, September 25, 2012 9:46 AM
> **To:** (b)(6),(b)(7)(C)
> **Subject:** RE: to do list
>
> Good morning, I'm free whenever as well. Thanks! (b)(6),(b)(7)(C)

> **From:** (b)(6),(b)(7)(C)
> **Sent:** Tuesday, September 25, 2012 9:45 AM
> **To:** (b)(6),(b)(7)(C)
> **Subject:** FW: to do list
>
> Morning, (b)(6),(b)(7)(C)
>
> I am free all day, so can meet whenever is best for you.
>
> Thanks,
>
> (b)(6), (b)(7)

> **From:** (b)(6),(b)(7)(C)
> **Sent:** Monday, September 24, 2012 5:10 PM
> **To:** (b)(6),(b)(7)(C) Westman-Cherry, Melissa
> **Subject:** RE: to do list
>
> Sounds good. Maybe you and (b)(6) and I could meet tomorrow morning to break up the docs. (b)(5) (b)(5) Thanks! (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, September 24, 2012 5:08 PM
To: (b)(6),(b)(7)(C) Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE: to do list

(b)(6), – I'm happy to look at these (b)(5) too. Maybe we can touch base tomorrow on how best to divide up what you've found? My schedule' open tomorrow Not Responsive No t R Thanks, (b)(6),(b)(7)(C)

From: (b)(6),(b)(7)(C)
Sent: Monday, September 24, 2012 4:54 PM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE: to do list

Sounds good – will do.

(b)(6),(b)(7)(C)

From: Westman-Cherry, Melissa
Sent: Monday, September 24, 2012 4:52 PM
To: (b)(6),(b)(7)(C)
Subject: RE: to do list

Hi All,

(b)(5)

(b)(6),(b)(7)(we talked last week about you possibly reviewing some of these- could you touch base with (b)(6),(b)(7)(C) and she will get you some stuff to look over?

(b)(6),(b)(7)(if you want to take some on as well, let (b)(6),(b)(7)(know.

Thanks!

From: (b)(6),(b)(7)(C)
Sent: Monday, September 24, 2012 10:09 AM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: to do list

Hi everyone, If there's anything I can help with today, let me know. (b)(5)

(b)(5) Thanks, (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Friday, September 28, 2012 10:49 AM
To: (b)(6),(b)(7)(C)
Subject: RE:

Tracking:

Recipient	Delivery
(b)(6),(b)(7)(C)	Delivered: 9/28/2012 10:49 AM

(b)(5)

From: (b)(6),(b)(7)(C)
Sent: Friday, September 28, 2012 10:45 AM
To: (b)(6),(b)(7)(C)
Subject: RE:

(b)(5)

From: (b)(6),(b)(7)(C)
Sent: Friday, September 28, 2012 10:07 AM
To: (b)(6),(b)(7)(C)
Subject: RE:

Yes. Thank you.

(b)(3):21(f),(b)(5),(b)(6),(b)(7)(C)

From: Blank, Barbara
Sent: Friday, September 28, 2012 9:44 AM
To: (b)(6),(b)(7)(C) Westman-Cherry, (b)(6),(b)(7)(C)
Subject: RE:

Thanks very much, (b)(6),(b)(7)(C) (b)(5)
(b)(5),(b)(7)(D)

Thank you so much!! And please swing by if you have any questions. I just left a VM for (b)(6),(b)(7)(C) – please touch base directly with (b)(6),(b)(7)(to divide.

From: (b)(6),(b)(7)(C)
Sent: Friday, September 28, 2012 9:38 AM
To: Westman-Cherry, Melissa; Blank, Barbara
Subject: RE:

(b)(5)

Let me know if you'd like me to stop by, or send something that shows you how to find these docs.
Thanks! (b)(6),(b)(7)(

From: Westman-Cherry, Melissa
Sent: Friday, September 28, 2012 9:19 AM
To: Blank, Barbara; (b)(6),(b)(7)(C)
Subject: RE:

(b)(5),(b)(7)(D)

From: Blank, Barbara
Sent: Friday, September 28, 2012 8:55 AM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE:

Thanks (b)(6),(b)(7)(C) can you please swing by when you get a chance? (b)(5)
(b)(5),(b)(7)(D)

From: Westman-Cherry, Melissa
Sent: Friday, September 28, 2012 8:49 AM
To: Blank, Barbara; (b)(6),(b)(7)(C)
Subject: Re:

Mischler, Erin

From: Blank, Barbara
Sent: Friday, September 28, 2012 10:06 AM
To: (b)(6),(b)(7)(C) Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE:

Just as quickly as you can get through them – early/mid-next week is fine, (b)(5) (b)(5) that would be great. Thank you so much!

From: (b)(6),(b)(7)(C)
Sent: Friday, September 28, 2012 10:01 AM
To: Blank, Barbara; Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE:

Sounds good. I just talked to (b)(6), (b)(7)(and we will start splitting this up. When do you need this by?
Thanks! (b)(6), (b)(7)(C)

Duplicate

Mischler, Erin

From: (b)(6),(b)(7)(C)
Sent: Thursday, October 11, 2012 5:06 PM
To: (b)(6),(b)(7)(C)
Subject: RE: Not Responsive

Tracking:

Recipient	Delivery	Read
(b)(6),(b)(7)(C)	Delivered: 10/11/2012 5:06 PM	Read: 10/11/2012 5:06 PM

Thanks- no worries.

From: (b)(6),(b)(7)(C)
Sent: Thursday, October 11, 2012 5:06 PM
To: (b)(6),(b)(7)(C)
Subject: FW: Not Responsive

Oop – sorry for the delay!

From: (b)(6),(b)(7)(C)
Sent: Wednesday, October 10, 2012 11:55 AM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Subject: RE: Not Responsive

(b)(5)

Let me know how these look, then I'll check in with (b)(6),(b)(7)(C) to see how to create a (b)(5)

Thanks! (b)(6),(b)(7)(C)

(b)(7)(E)

From: Blank, Barbara
Sent: Wednesday, October 10, 2012 11:06 AM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Cc: (b)(6),(b)(7)(C)
Subject: FW: Not Responsive

(b)(5)

(b)(5) Do you have availability for a call M-W next week?

Mischler, Erin

From: Westman-Cherry, Melissa
Sent: Wednesday, May 30, 2012 5:12 PM
To: (b)(6),(b)(7)(C)
Subject: RE: FTC Subpoena to (b)(7)(D)

Perfect- thanks!

Not Responsive

From (b)(6),(b)(7)(C)
Sent: Wednesday, May 30, 2012 5:11 PM
To: Westman-Cherry, Melissa
Subject: RE: FTC Subpoena to (b)(7)(D)

This looks really helpful! (b)(5)

From: Westman-Cherry, Melissa
Sent: Wednesday, May 30, 2012 5:04 PM
To: (b)(7)(C),(b)(7)(D)
Cc: (b)(6),(b)(7)(C) (b)(7)(D)
Subject: RE: FTC Subpoena to (b)(7)(D)

(b)(7)(C),(b)

This looks incredibly helpful. Many thanks to you and (b)(6), (b)(7)(C) for putting it together.

Best,
Melissa

Not Responsive

Mischler, Erin

From: Westman-Cherry, Melissa
Sent: Wednesday, June 13, 2012 11:25 AM
To: (b)(6),(b)(7)(C)
Cc:
Subject: RE: (b)(3):21(f),(b)(5)

Just left Burke a message- totally forgot to ask him. I will let you know what he says. Thanks for following up!

From: (b)(6),(b)(7)(C)
Sent: Wednesday, June 13, 2012 11:15 AM
To: Westman-Cherry, Melissa
Cc: (b)(6),(b)(7)(C)
Subject: (b)(3):21(f),(b)(5)

Hey Melissa,

Has OGC told us (b)(3):21(f),(b)(5)

Thanks,
(b)(6),

Mischler, Erin

From: Westman-Cherry, Melissa
Sent: Thursday, August 16, 2012 5:07 PM
To: (b)(6),(b)(7)(C)
Subject: RE: Google Inc., FTC File No. 111-0163

Gracias.

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 4:58 PM
To: Westman-Cherry, Melissa
Subject: RE: Google Inc., FTC File No. 111-0163

Sure. Tomorrow should be fine.

From: Westman-Cherry, Melissa
Sent: Thursday, August 16, 2012 4:45 PM
To: (b)(6),(b)(7)(C)
Subject: RE: Google Inc., FTC File No. 111-0163

I honestly can't remember what you are doing right now, so I'm not sure how to prioritize! Could you get to it tomorrow or Monday?

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 4:43 PM
To: Westman-Cherry, Melissa
Subject: RE: Google Inc., FTC File No. 111-0163

Sounds good. When do you need this by?

From: Westman-Cherry, Melissa
Sent: Thursday, August 16, 2012 4:41 PM
To: (b)(6),(b)(7)(C)
Cc: Kappler, Burke; (b)(6),(b)(7)(C)
Subject: RE: Google Inc., FTC File No. 111-0163

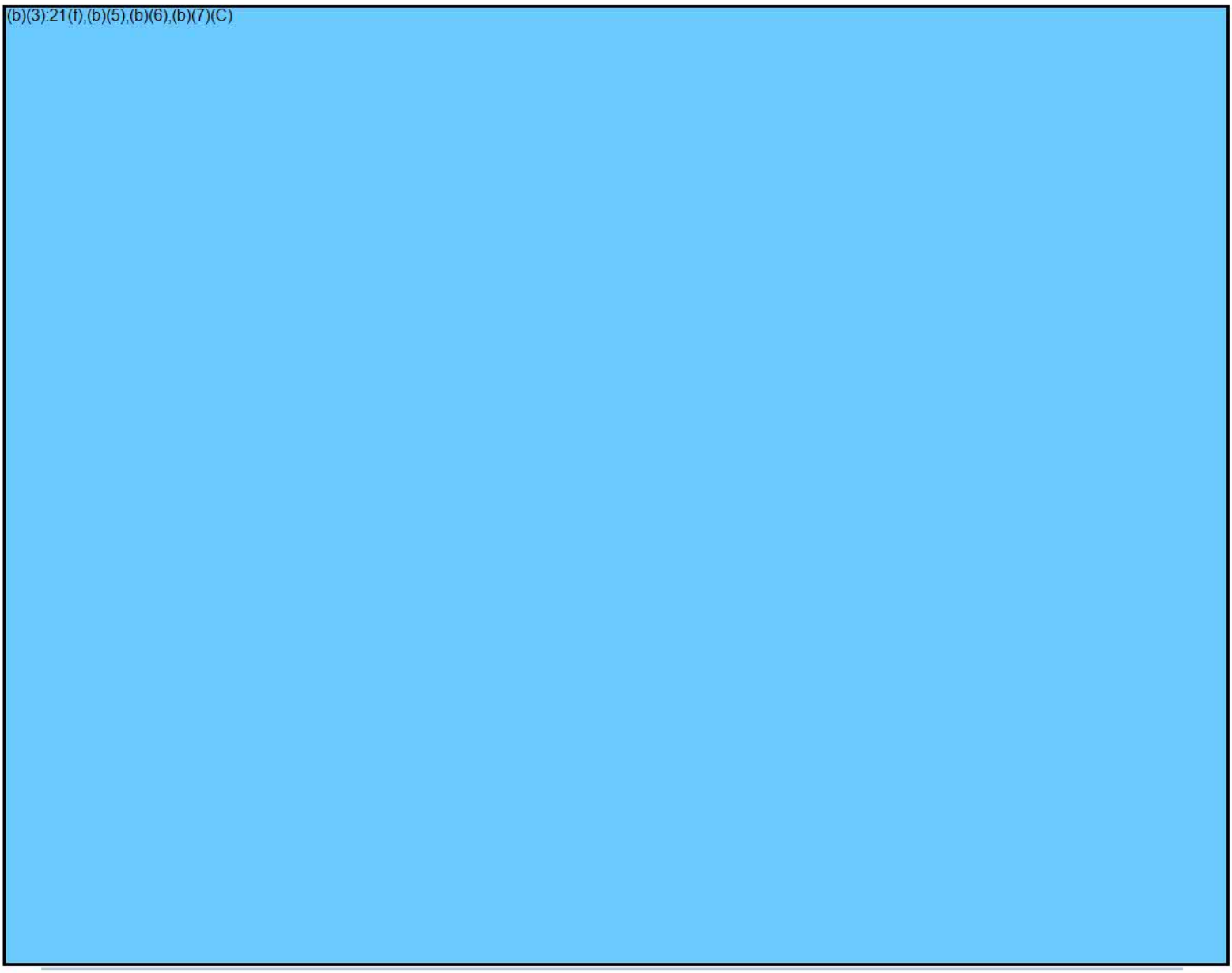
Cripes.

(b)(5),(b)(6),(b)(7)(C)

(b)(5),(b)(6),(b)(7)(C) If you have questions, pop by.

Thanks!

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 4:36 PM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Cc: Kappler, Burke; (b)(6),(b)(7)(C)
Subject: Re: Google Inc., FTC File No. 111-0163



From: Westman-Cherry, Melissa
Sent: Thursday, August 16, 2012 12:39 PM
To: (b)(6),(b)(7)(C)
Cc: Kappler, Burke; (b)(6),(b)(7)(C)
Subject: RE: Google Inc., FTC File No. 111-0163

Ok- could you begin the process of breaking it up and loading it into Concordance? Then it would be searchable, correct? (b)(5),(b)(6),(b)(7)(C)

(b)(5)

(b)(6), I will fill in details if we end up doing it this way.

Thanks!

From: (b)(6),(b)(7)(C)
Sent: Thursday, August 16, 2012 12:35 PM
To: Westman-Cherry, Melissa; (b)(6),(b)(7)(C)
Cc: Kappler, Burke
Subject: RE: Google Inc., FTC File No. 111-0163

Mischler, Erin

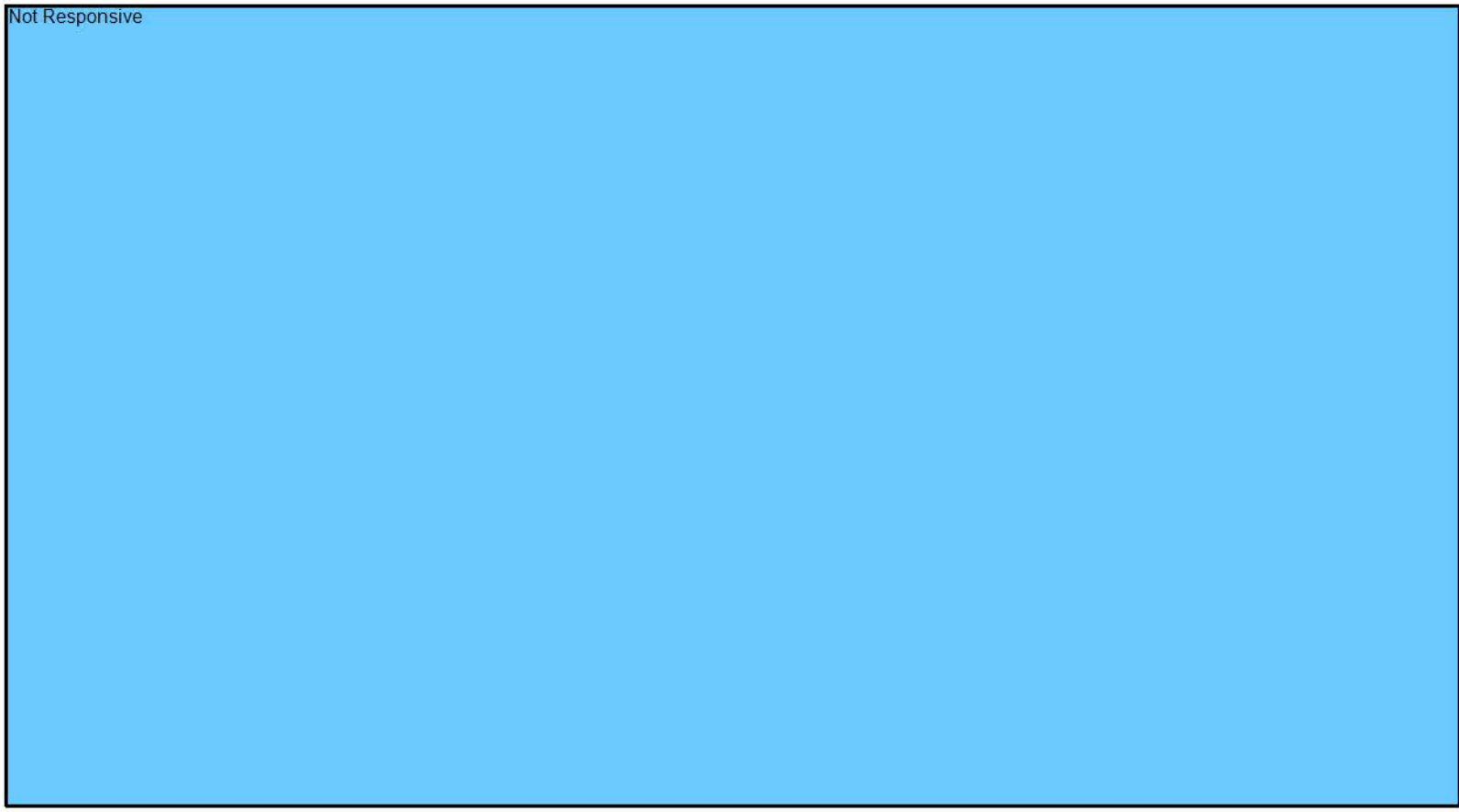
From: Renner, Christopher
Sent: Thursday, November 01, 2012 6:53 PM
To: Leibowitz, Jonathan D.
Subject: Re: (b)(7)(D) follow up

No thank you.

From: Leibowitz, Jonathan D.
Sent: Thursday, November 01, 2012 06:14 PM
To: Renner, Christopher
Subject: FW: (b)(7)(D) follow up

You need attached slides printed?

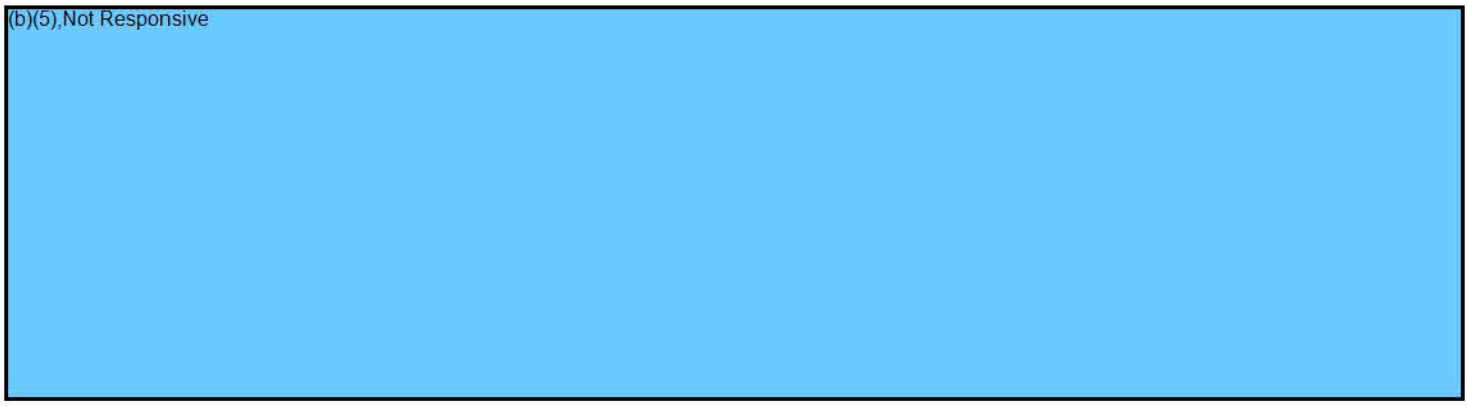
Not Responsive



From: Tucker, Darren
Sent: Thursday, November 15, 2012 7:38 AM
To: Renner, Christopher; Kimmel, Lisa; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Okuliar, Alexander
Subject: RE: Google SEP and search investigation (b)(5)

Chris,

I expect that we will be ready to vote (b)(5) by Tuesday. I should be able to confirm this tomorrow. Two questions for you:



Thanks,
Darren

From: Renner, Christopher
Sent: Wednesday, November 14, 2012 7:37 PM
To: Tucker, Darren; Kimmel, Lisa; Slater, Abigail A.; Vedova, Holly L.; Luib, Gregory; Okuliar, Alexander
Subject: Google SEP and search investigation (b)(5)

Hi –

(b)(5)

Not Responsive

Please send me your comments, if any, (b)(5) as soon as practicable. Please also circulate any statements as they become available.

Thanks,

Chris

Mischler, Erin

From: Levitas, Pete
Sent: Tuesday, November 27, 2012 9:22 AM
To: Renner, Christopher
Subject: RE: Google

Thanks, (b)(5)

From: Renner, Christopher
Sent: Monday, November 26, 2012 7:07 PM
To: Levitas, Pete
Subject: Google

Here is the document Jon is thinking of. I'll have a copy for him.

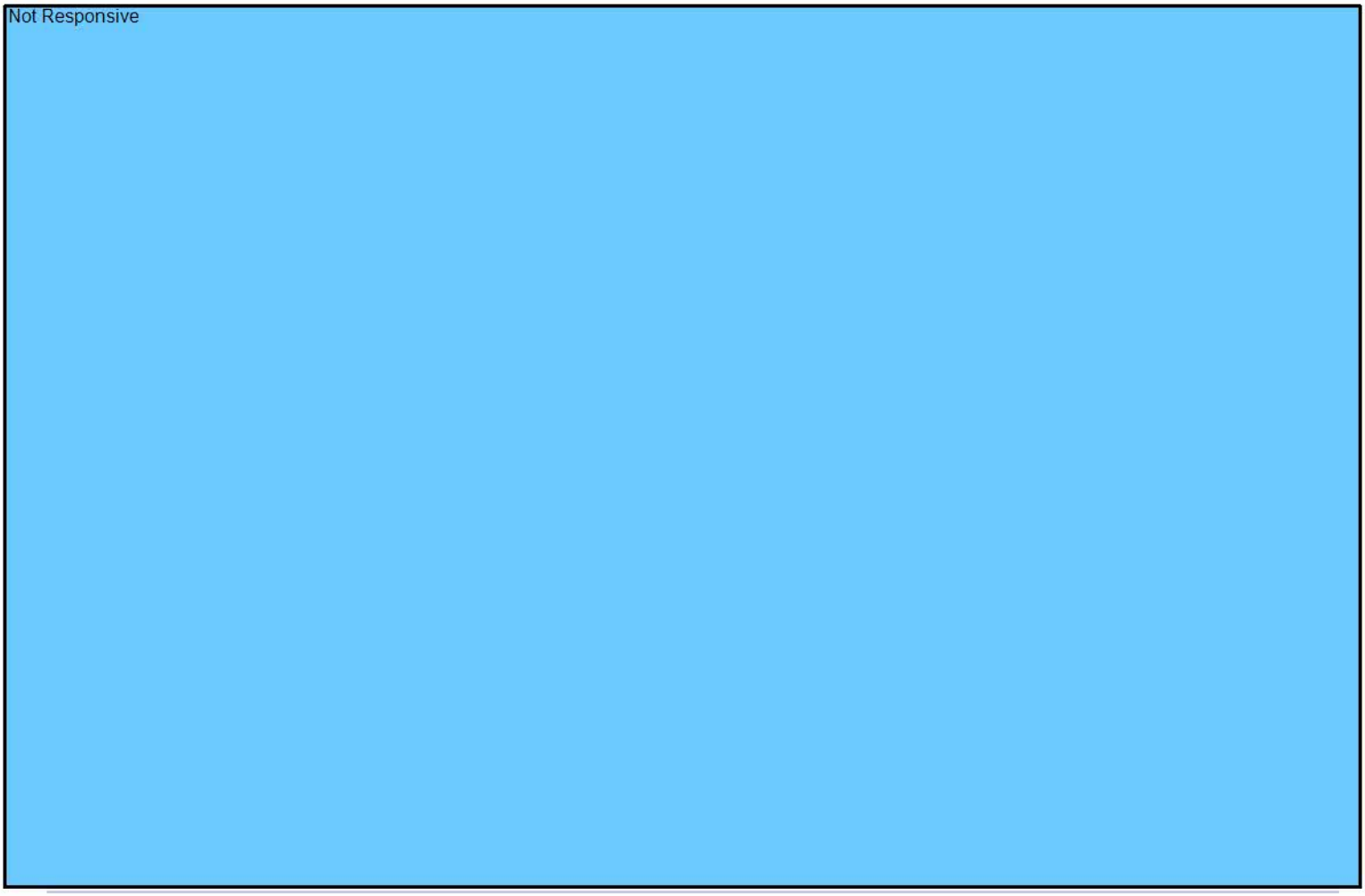
(b)(5),(b)(7)(D),Not Responsive

Mischler, Erin

From: Renner, Christopher
Sent: Thursday, December 06, 2012 9:41 AM
To: (b)(7)(D)
Subject: RE: Supplemental submission re Google Shopping

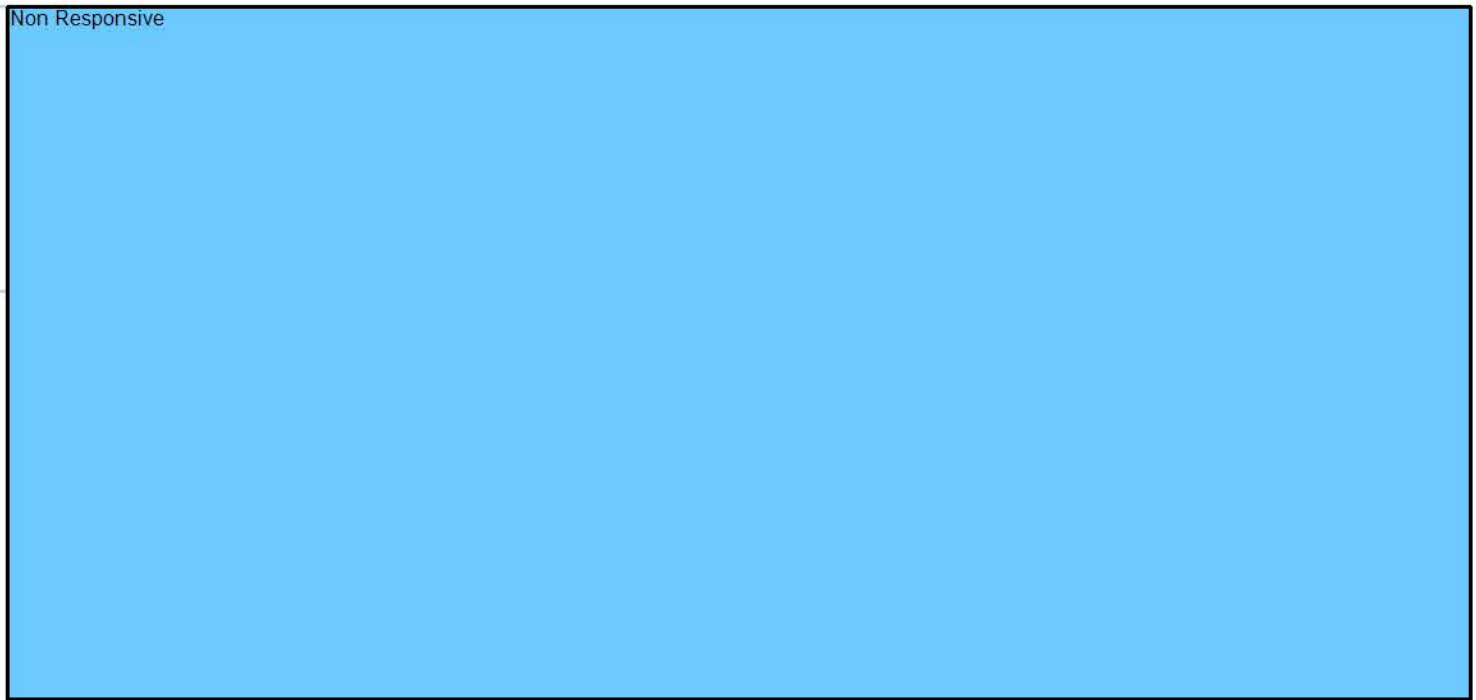
Thanks very much, (b)(7)(D)

(b)(3):6(f),(b)(4),(b)(7)(D)



From: JDL
Sent: Monday, December 17, 2012 10:37 PM
To: Renner, Christopher
Subject: RE: The Devil is in the Details

In the event we actually do conclude the Google matter this week, just curious—what's the status of the draft statement?
Best,
Jon



Mischler, Erin

From: (b)(7)(C)
Sent: Wednesday, January 02, 2013 1:54 PM
To: Ramirez, Edith
Cc: (b)(7)(C)
Subject: FW: Google Commitment Letter
Attachments: Google Letter to Chairman Leibowitz (with signature page).pdf

FYI

From: (b)(7)(C)
Sent: Wednesday, January 02, 2013 1:49 PM
To: (b)(7)(C)
Cc: Feinstein, Richard; Levitas, Pete
Subject: Google Commitment Letter

Attached is the signed letter from Google on API and Scraping. We will formally circulate it as well.

Thanks,
(b)(7)(

(b)(7)(C)

1600 Amphitheatre Parkway
Mountain View, California 94043

Google

Tel: 650.623.4000
Fax: 650.618.1806
www.google.com

December 27, 2012

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Re: Google Inc., File No. 111-0163

Dear Chairman Leibowitz:

We understand that the Federal Trade Commission ("FTC" or the "Commission") has decided to close the above-captioned investigation of the business practices of Google Inc. ("Google"). Google is confident that our practices are entirely consistent with all applicable laws and regulations. However, in connection with the closing of the FTC's investigation, Google is making the commitments described below with respect to its display of content from third-party websites and with respect to its AdWords API Terms and Conditions. Google will honor these commitments for a period of five years from the date of this letter.

Google will publish the commitments on our website in a location easily accessible to the relevant audiences. Google understands that these commitments are important; and Google agrees that a material violation of these commitments would be actionable by the FTC under Section 5 of the FTC Act, 15 U.S.C. §45, and that the jurisdictional elements of such an action by the Commission would be satisfied. As more fully described below, Google will cooperate with the FTC to ensure that Google is complying with its commitments under this letter.

I. GOOGLE'S DISPLAY OF THIRD-PARTY CONTENT

Within 90 days, Google will make available a web-based notice form that provides website owners with the option to opt out from display on Google's Covered Webpages[1] of content from their website that has been crawled by

[1] "Covered Webpages" means only Google's (i) current Shopping, G+ Local, Flights, Hotels, and Advisor webpages, and any successors unless such successors do not have the primary purpose of connecting users with merchants in a manner substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages; and (ii) future or modified non-experimental specialized webpages launched within three years of the date of this letter that are linked to from the google.com search results page and that have the primary purpose of connecting users with merchants in a manner substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages. All other Google

Google.[2] When a website owner exercises this option, Google will cease displaying crawled content from the domain name designated by the website owner on Covered Webpages on the google.com domain in the United States.

Website owners will be able to exercise the opt-out described above by completing a web-based notice form. Google will implement the opt-out within 30 business days of receiving a properly completed notice form.

Exercise of this option will not (1) prevent content from the website from appearing in conventional search results on the google.com search results page, or (2) be used as a signal in determining conventional search results on the google.com search results page.

Beyond these specific commitments, nothing described above will impact Google's ability to (i) display content that it has sourced or derived independently even if it is the same as or overlaps with content from the opting-out web site, or (ii) otherwise crawl, organize, index and display information from the Internet or innovate in search.

II. ADWORDS API TERMS AND CONDITIONS

Within 60 days, Google will remove from its AdWords API Terms and Conditions the AdWords API Input and Copying Restrictions currently contained within Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions for all AdWords API licensees with a primary billing address in the United States.[3] In addition, Google will not add any new provisions to its AdWords API Terms and Conditions, or adopt new technical requirements in connection with use of the AdWords API, that prevent an AdWords API client from (a) showing input fields for the collection or transmission of AdWords API campaign management data in the same tab or screen with (i) the content of third party ad networks or (ii) input fields for the collection or transmission of campaign management data to third party ad

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webpages (including but not limited to Google's current News, Image Search, Video Search, Maps, Book Search, Finance, and future or modified Google webpages falling outside of the parameters in (ii) above) are not Covered Webpages.

[2] Website owners will be permitted to exercise the opt-out on a domain name basis. For instance, a website owner may designate [www.example.com] to subject all content on that domain name to the opt-out. A website owner may not designate only individual sub-domains (such as [sub.example.com]) or individual directories within a domain (such as [www.example.com/sub]) for the opt-out. Google may use reasonable authentication measures to ensure that website owners selecting the opt-out are the legitimate owners of the website that is the subject of the web form notice.

[3] The current version of the AdWords API Terms and Conditions is located at https://developers.google.com/adwords/api/docs/terms.

networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

* * *

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.

Sincerely,

David Drummond
Google Inc.
Senior Vice President of Corporate Development
and Chief Legal Officer

Mischler, Erin

From: (b)(7)(C)
Sent: Wednesday, December 12, 2012 2:41 PM
To: Ramirez, Edith
Cc: (b)(7)(C)
Subject: Fw: Google Search - proposed letter from Google
Attachments: 2012-12-10 GOOGLE Rev Google letter to Chairman Leibowitz clean.docx

Edith, here is a new version of the letter. (b)(5)
(b)(5)

----- Original Message -----
From: Blank, Barbara
Sent: Wednesday, December 12, 2012 01:37 PM
To: (b)(7)(C)
Cc: Feinstein, Richard; Levitas, Pete; (b)(7)(C)
Subject: Google Search - proposed letter from Google

Attached, please find the most current version of Google's proposal to the Commission. (b)(5)
(b)(5)

Thanks very much,

Barbara

DRAFT
FOR DISCUSSION PURPOSES ONLY
NO AGREEMENT IMPLIED

******* DRAFT OF DECEMBER 10, 2012 *******

[DATE]

The Honorable Jon Leibowitz
Chairman
Federal Trade Commission
601 New Jersey Avenue, N.W.
Washington, DC 20580

Re: Google Inc., File No. 111-0163

Dear Chairman Leibowitz:

We understand that the Federal Trade Commission ("FTC" or the "Commission") has decided to close the above-captioned investigation of the business practices of Google Inc. ("Google"). Google is confident that our practices are entirely consistent with all applicable laws and regulations. However, in connection with the closing of the FTC's investigation, Google is making the commitments described below with respect to its display of content from third-party websites and with respect to its AdWords API Terms and Conditions. Google will honor these commitments for a period of five years from the date of this letter.

Google will publish the commitments on our website in a location easily accessible to the relevant audiences. Google understands that these commitments are important; and Google agrees that a material violation of these commitments would be actionable by the FTC under Section 5 of the FTC Act, 15 U.S.C. §45, and that the jurisdictional elements of such an action by the Commission would be satisfied. As more fully described below, Google will cooperate with the FTC to ensure that Google is complying with its commitments under this letter.

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[1] "Covered Webpages" means only Google's (i) current Shopping, G+ Local, Flights, Hotels, and Advisor webpages, and any successor products unless such products do not have the primary purpose of connecting users with merchants in a manner

Google.[2] When a website owner exercises this option, Google will cease displaying crawled content from the domain name designated by the website owner on Covered Webpages on the google.com domain in the United States.

Website owners will be able to exercise the opt-out described above by completing a web-based notice form. Google will implement the opt-out within 30 business days of receiving a properly completed notice form.

Exercise of this option will not (1) prevent content from the website from appearing in conventional search results on the google.com search results page, or (2) be used as a signal in determining conventional search results on the google.com search results page.

Beyond these specific commitments, nothing described above will impact Google's ability to (i) display content that it has sourced or derived independently even if it is the same as or overlaps with content from the opting-out web site, or (ii) otherwise crawl, organize, index and display information from the Internet or innovate in search.

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Within 60 days, Google will remove from its AdWords API Terms and Conditions the AdWords API Input and Copying Restrictions currently contained within Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions for all AdWords API licensees with a primary billing address in the United States.[3] In addition, Google will not add any new provisions to its AdWords API Terms and

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substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages; and (ii) future or modified non-experimental specialized webpages launched within three years of the date of this letter that are linked to from the google.com search results page and have the primary purpose of connecting users with merchants in a manner substantially similar to Google's current Shopping, G+ Local, Flights, Hotels, and Advisor webpages. All other Google webpages (including but not limited to Google's current News, Image Search, Video Search, Maps, Book Search, Finance, and future or modified Google webpages falling outside of the parameters in (ii) above) are not Covered Webpages.

[2] Website owners will be permitted to exercise the opt-out on a domain name basis. For instance, a website owner may designate [www.example.com] to subject all content on that domain name to the opt-out. A website owner may not designate only individual sub-domains (such as [sub.example.com]) or individual directories within a domain (such as [www.example.com/sub]) for the opt-out. Google may use reasonable authentication measures to ensure that website owners selecting the opt-out are the legitimate owners of the website that is the subject of the web form notice.

[3] The current version of the AdWords API Terms and Conditions is located at https://developers.google.com/adwords/api/docs/terms.

Conditions, or adopt new technical requirements in connection with use of the AdWords API, that prevent an AdWords API client from (a) showing input fields for the collection or transmission of AdWords API campaign management data in the same tab or screen with (i) the content of third party ad networks or (ii) input fields for the collection or transmission of campaign management data to third party ad networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

* * *

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.

Mischler, Erin

From: (b)(7)(C)
Sent: Tuesday, January 01, 2013 2:15 PM
To: Ramirez, Edith
Subject: Fw: Google

----- Original Message -----
From: (b)(7)(C)
Sent: Tuesday, January 01, 2013 01:43 PM
To: (b)(7)(C)
Subject: Google

Signed and sent the commitment letter on APIs and scraping this morning.

Mischler, Erin

From: Brill, Julie
Sent: Monday, December 10, 2012 5:41 PM
To: Ramirez, Edith
Subject: RE: Google closing statement
Attachments: 2012-12-08 FTC Rev Google letter to Chairman Leibowitz.docx

(b)(5)

Here is the electronic version of Google's letter to us, with our edits on it.

(b)(5)

(b)(5)

From: Nikhil Shanbhag [mailto:nshanbhag@google.com]
Sent: Monday, December 31, 2012 6:09 PM
To: Feinstein, Richard
Cc: Creighton, Susan; (b)(7)(C)
Subject: Re: Commission statement

Hi Rich --

I've had a chance to check in with David. While his understanding was that his discussion with the Chairman only involved the sending of the signed ACCO pages, he is OK proceeding with the signed commitment letter. However, Google's agreement to be bound by the letter will still be contingent on our comfort with the substance of the Commission Statement. David is in transit right now but will be able to send me the signed letter in several hours.

On the discussion of the Commission Statement, would it be possible to schedule that discussion for tomorrow afternoon Eastern time? Since David will not be able to provide final sign-off on the agreement until that discussion happens, we would suggest scheduling it as soon as possible to allow you to move the Commission process forward.

Thanks,
Nikhil

Nikhil Shanbhag | Senior Competition Counsel | Google Inc.
nshanbhag@google.com | 650-214-5313

On Mon, Dec 31, 2012 at 4:56 PM, Feinstein, Richard <rfeinstein@ftc.gov> wrote:

Nikhil—

Thanks for your note. Chris and I have received explicit instructions from the Chairman—following his most recent telephone conversations with David Drummond—to coordinate with you on messaging as soon as we have received the signed commitment letter. We understood that both the signed ACCO and the signed commitment letter would be sent to us today. We are available as early on Wednesday as is convenient for you to have that discussion, provided that we have received the letter first.

Thanks, and Happy New Year to you and Susan as well.

Rich

From: Nikhil Shanbhag [mailto:nshanbhag@google.com]
Sent: Monday, December 31, 2012 4:27 PM
To: Feinstein, Richard
Cc: Creighton, Susan; (b)(7)(C)
Subject: Re: Commission statement

Rich,

Thanks for your response. As we've discussed, having an understanding of the substance of the Commission Statement is of the utmost importance to Google and forms a critical part of our agreement with respect to resolution of the "search" investigation. Once we're able to understand the contours of that document from you, we'll be able to convey that to David Drummond, Larry Page, et al. Assuming the Statement conforms to their understanding from the various discussions with Chairman Leibowitz, we anticipate a final call from David to the Chairman and conveyance of the signed commitments letter to you.

Could you let us know when you anticipate being able to discuss the Statement so we can put this final piece into position?

Thanks and Happy New Year,

Nikhil

Nikhil Shanbhag | Senior Competition Counsel | Google Inc.
nshanbhag@google.com | 650-214-5313

On Mon, Dec 31, 2012 at 3:21 PM, Feinstein, Richard <rfeinstein@ftc.gov> wrote:

Susan--
I apologize for the delay in getting back to you--I was tied up for most of the last two hours. Is there some reason why we haven't received a signed copy of the commitment letter to the Chairman?
Rich

-----Original Message-----
From: Creighton, Susan [mailto:screighton@wsgr.com]
Sent: Monday, December 31, 2012 12:53 PM
To: Feinstein, Richard
Cc: Nikhil Shanbhag (nshanbhag@google.com)
Subject: Commission statement

Rich: are you in position at this point to walk Nikhil and I through the Commission statement at this point? We're free at 2 if that's convenient for you, or 2:30 or 3 if that's better.

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any review, copying, or distribution of this email (or any attachments thereto) by others is strictly prohibited. If you are not the intended recipient, please contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

Mischler, Erin

From: Feinstein, Richard
Sent: Monday, March 18, 2013 8:02 AM
To: Mischler, Erin
Subject: FW: [FOR SIGNATURE] Commitments Letter
Attachments: IMG.pdf

Non Responsive

From: Kent Walker [mailto:kwalker@google.com]
Sent: Tuesday, January 01, 2013 11:20 AM
To: Feinstein, Richard
Subject: Fwd: [FOR SIGNATURE] Commitments Letter

Rich --
Good to talk with you. Here's the signature page for the commitment letter. With that, I think you have everything you need from us, but let me know if there's anything outstanding on our end. We're currently assuming that the Commission will announce on Thursday, so if Wednesday starts to look more likely, please let us know as soon as you can. Also, we're happy to have the press people in touch whenever it's appropriate.

Thanks, and all the best for the new year.
-- Kent

networks; or (b) offering functionality that copies campaign management data between AdWords and a third party ad network. Google will not treat AdWords API licensees differently from similarly situated licensees with respect to the provision or administration of the AdWords API as a result of their development or distribution of AdWords API clients that implement the functionality currently prohibited by Section III(2)(c)(i-ii) of the AdWords API Terms and Conditions.

Nothing in the foregoing will prevent or otherwise restrict Google from maintaining minimum functionality requirements as they currently exist or as they may be modified in the future as part of Google's AdWords API Terms and Conditions or in any other provisions governing the use of the AdWords API, so long as such modifications do not have the effect of reinstating the restrictions described above.

* * *

Within 60 days, Google will file with the Secretary of the FTC, with a copy to the Bureau of Competition's Compliance Division, a report describing in reasonable detail how Google has complied with its commitments, and Google will file an update to this report annually during the duration of its commitments.

If Google receives written notice from the Commission that the Commission believes Google has acted contrary to its commitments on the display of third-party content or the AdWords API Terms and Conditions, Google will, within 60 days, address the Commission's concerns or explain to the Commission why it believes that it has acted in a manner consistent with its commitments.

In addition, if the FTC has reason to suspect that Google has violated its commitments and with reasonable prior written notice from FTC staff, subject to claims of any legally recognized privilege, Google will (1) make available electronic and paper documents related to compliance with the above commitments, and (2) in the presence of Google's legal counsel, Google will permit FTC staff to interview its officers, directors, employees and agents on subjects related to Google's compliance with these commitments.

Sincerely,

David Drummond
Google Inc.
Senior Vice President of Corporate Development
and Chief Legal Officer

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

Office of the Secretary

October 19, 2012

The Honorable Herb Kohl
Chairman
Subcommittee on Antitrust, Competition Policy
and Consumer Rights
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated October 17, 2012, requesting a confidential staff briefing on the agency's investigations into allegations that Google, Inc. has been engaged in anticompetitive conduct. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public

disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c)) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.[1]

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).[2]

Further, information discussed during the briefing would reveal the existence of, and information concerning, ongoing, nonpublic law enforcement investigations. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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[1] The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. *See* 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

[2] The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. *See Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

Donald S. Clark

Donald S. Clark
Secretary

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

Office of the Secretary

September 13, 2011

The Honorable Herb Kohl
Chairman
Subcommittee on Antitrust, Competition Policy and Consumer Rights
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated September 7, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21(c) of the FTC Act, 15 U.S.C. § 57b-2(c). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.[1]

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).[2]

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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[1] The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. *See* 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

[2] The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. *See Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

Donald S. Clark
Secretary

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

Office of the Secretary

December 5, 2011

The Honorable Herb Kohl
Chairman
Subcommittee on Antitrust, Competition Policy and Consumer Rights
Committee on the Judiciary
United States Senate
Washington, DC 20510-6275

Dear Chairman Kohl:

Thank you for your letter dated November 18, 2011, requesting a confidential staff briefing on the agency's investigation into Google, Inc.'s search engine practices. The Commission is responding to your request as an official request of a Congressional Subcommittee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2

Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided their materials and information with a specific request for confidential treatment under Section 21 (c)) of the FTC Act, 15 U.S.C. § 57b-2(c)). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.[1]

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).[2]

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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[1] The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. *See* 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

[2] The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. *See Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Subcommittee, and the Commission has authorized staff to provide the requested briefing to Subcommittee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Subcommittee maintain its confidentiality.

By direction of the Commission.

Donald S. Clark
Secretary

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

Office of the Secretary

November 8, 2012

The Honorable John D. Rockefeller IV
Chairman
Committee on Commerce, Science, and Transportation
United States Senate
Washington, DC 20510-6125

Dear Chairman Rockefeller:

Thank you for your letter dated November 6, 2012, requesting a confidential staff briefing on the agency's investigations into Google, Inc. The Commission is responding to your request as an official request of a Congressional Committee, *see* Commission Rule 4.11(b), 16 C.F.R. § 4.11(b), and has authorized its staff to provide the requested briefing.

Most of the information that the Commission attorneys will discuss during the briefing is nonpublic and statutorily protected from public disclosure by the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 41 *et seq.*, as well as exempt from mandatory disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. In particular, some of the information would be protected under Section 6(f) of the FTC Act, 15 U.S.C. § 46(f), as confidential commercial or financial information. The Commission is prohibited from disclosing such information publicly, and it would be exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). Because disclosure of this information is likely to result in substantial competitive harm to the submitters, or is clearly not of a kind that submitters would customarily make available to the public, it would be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. § 552(b)(4). *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 877-80 (D.C. Cir. 1992) (*en banc*), *cert. denied*, 507 U.S. 984 (1993) (exempt status accorded to information submitted voluntarily); *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) (exempt status accorded to information submitted under compulsion).

Most of the information that the Commission attorneys will discuss was obtained by compulsory process or provided voluntarily in lieu thereof in a law enforcement investigation. Such information is protected from public disclosure under Section 21(f) of the FTC Act, 15 U.S.C. § 57b-2(f). By virtue of that section, such information is also exempt from public disclosure under FOIA Exemption 3(B), 5 U.S.C. § 552(b)(3)(B). *McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63,964 at 75,982-3 (D.D.C. April 13, 1981); *Dairymen, Inc. v. FTC*, 1980-2 Trade Cas. (CCH) ¶ 63,479 (D.D.C. July 9, 1980). Moreover, third party submitters provided

their materials and information with a specific request for confidential treatment under Section 21(c) of the FTC Act, 15 U.S.C. § 57b-2(c). Under Commission Rule 4.10(d), 16 C.F.R. § 4.10(d), the Commission has waived its discretion to release to the public materials submitted pursuant to compulsory process or materials submitted voluntarily in lieu of process that have been marked confidential by the submitting parties.[1]

Additional information that may be discussed during the briefing was submitted in response to the Hart-Scott-Rodino premerger notification requirements of the Clayton Act, 15 U.S.C. § 18a. Section 7A(h) of the Act prohibits public disclosure of such documents or information. By virtue of this statutory prohibition, this information is also exempt from disclosure under Freedom of Information Act (FOIA) Exemption 3A, 5 U.S.C. § 552(b)(3)(A).[2]

Further, information discussed during the briefing would reveal the existence of, and information concerning, an ongoing, nonpublic law enforcement investigation. Disclosure of this information could reasonably be expected to interfere with law enforcement proceedings, and this information is therefore protected from mandatory public disclosure by FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 232 (1978); *Ehringhaus v. FTC*, 525 F. Supp. 21, 24 (D.D.C. 1980).

Finally, some of the information that will be discussed during the briefing will include internal staff analyses and recommendations, which are predecisional, deliberative materials exempt from mandatory public disclosure under FOIA Exemption 5, 5 U.S.C. § 552(b)(5). *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Coastal States Gas Corp. v. Department of Energy*, 617 F.2d 854, 866 (D.C. Cir. 1980). Some of this information may also be protected from mandatory public disclosure under FOIA Exemption 5 as attorney work product prepared in anticipation of litigation. *FTC v. Grolier, Inc.*, 462 U.S. 19, 28 (1983); *Martin v. Office of Special Counsel, Merit Systems Protection Board*, 819 F.2d 1181, 1187 (D.C. Cir. 1987).

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[1] The Commission is required to notify persons who submitted information pursuant to compulsory process in a law enforcement investigation, or voluntarily in lieu thereof on a confidential basis, if the Commission receives a request from a Congressional Committee or Subcommittee for that information. *See* 15 U.S.C. §§ 57b-2(b)(3)(C), 57b-2(d)(1)(A); Commission Rule 4.11(b), 16 C.F.R. § 4.11(b). Staff is providing the requisite notice.

[2] The Commission has instructed its staff to provide reasonable notice, when possible, of the release to Congress of information submitted pursuant to HSR. *See Statement of Basis and Purpose of HSR Rules and Regulations*, 43 Fed. Reg. 33519 (July 31, 1978). Staff has provided notice to submitters pursuant to this policy.

Notwithstanding the protected status of most of the responsive information, the FTC Act, 15 U.S.C. § 57b-2(d)(1)(A), the Clayton Act, 15 U.S.C. § 18a(h), and the FOIA, 5 U.S.C. § 552(d), provide no authority to withhold such information from this Congressional Committee, and the Commission has authorized staff to provide the requested briefing to Committee staff. Because the confidential information would not be available to the public under the FOIA or otherwise, the Commission requests that the Committee maintain its confidentiality.

By direction of the Commission.

Donald S. Clark

Donald S. Clark
Secretary

Mischler, Erin

From: (b)(7)(C)
Sent: Friday, October 19, 2012 3:25 PM
To: (b)(7)(C) Ramirez, Edith
Subject: RE: Google API restrictions

Thanks (b)(5)
(b)(5)

Not Responsive

From: (b)(7)(C)
Sent: Friday, October 19, 2012 3:11 PM
To: (b)(7)(C) Ramirez, Edith
Subject: RE: Google API restrictions

(b)(5)

(b)(5)

(b)(7)

From: (b)(7)(C)
Sent: Friday, October 19, 2012 2:25 PM
To: Ramirez, Edith
Cc: (b)(7)(C)
Subject: FW: Google API restrictions

(b)(5)

Not Responsive

Mischler, Erin

From: (b)(7)(C)
Sent: Friday, September 14, 2012 9:13 AM
To: (b)(7)(C) Ramirez, Edith
Subject: RE: (b)(5)

(b)(5)

FOIA 2004-00189 Google

Number of consumer complaints in 2003 for Google: 90