I am commenting on the Agreement Containing Consent Order (the "Agreement and Order") relating to the Complaint involving Henry Schein Practice Solutions, Inc., which apparently is a subsidiary or an affiliate of Henry Schein, Inc. ("Schein"). My comments are summarized as follows (capitalized terms herein shall have the meanings assigned to them herein or the meanings ascribed to them in the Agreement and Order and or the original FTC Complaint related to this matter):

1. The fine proposed in connection with this matter is woefully insufficient in light of Schein's dominant market position in the dental office management software industry and the impact on not only the Affected Customers, but also the patients whose personal health information may have been put at risk. In addition, Schein's actions impacted those competitors which were HIPAA encryption compliant and which may have lost business to Schein as a result the deceptive conduct. A fine of $250,000 is nominal and will have no deterrent effect on Schein or on other companies that may engage in similar unfair and deceptive trade practices involving encryption required by HIPAA. Schein's deceptive practices regarding encryption not only misled dentists who had either purchased previous versions of the Dentrix software and upgraded to Dentrix G5 or specifically purchased Dentrix G5 software based upon the representations, but also impacted patients whose personal health information may have been put at risk. In Schein's Annual Report for 2014, they claim to service 90,000 or more clients of which a significant number are dentists given the fact that over half of Schein's $10.4 billion in global sales is derived from the dental business segment (as shown in the 2014 Schein Annual Report) and this in turn equates to millions of patients. Dentists that wish to rely on the safe harbor provisions under the Breach Notification Rule based on the NIST compliant encryption standard may choose to seek other vendors of comparable software that meets the NIST standard, and if they do so will necessarily incur both soft and hard costs in migrating as well as new licensing fees in transitioning to new service providers. Under the Agreement and Order, these dentists will not be compensated. This financial impact on the Affected Customers (dentists) should be factored into the fine, as well as the other conditions of the Order.

2. The requirement that Schein must notify Affected Customers by a letter is insufficient to address the impact on dentists and their patients who are affected by the conduct. In addition to contacting each Affected Customer by mail, Henry Schein should be required to publicly apologize and explain their conduct by posting a notice and narrative on their website and releasing a similar statement to the press. With literally millions of patients and tens of thousands of dentists impacted by this conduct, notifying just the Affected Customers as defined in the Agreement and Order is insufficient.

3. The Agreement and Order by its terms only apply to Henry Schein Practice Solutions, Inc. Henry Schein Practice Solutions, Inc. appears to be a

subsidiary of Henry Schein, Inc. I believe that the Henry Schein, Inc. should be a party to the Agreement and Order as the parent which controls marketing for the company.

DISCUSSION

In its Annual Report for fiscal year 2014, Henry Schein, Inc. states that "We believe we are the world's largest provider of health care products and services primarily to office-based dental, animal health and medical practitioners. We serve more than one million customers worldwide including dental practitioners in laboratories, health care clinics and physician's practices as well as government, institutional health care clinics and alternate care clinics." With respect to the health care products distribution industry, they also note that this industry, which encompasses the dental, animal health and medical markets, was estimated to produce global revenues of approximately $45 billion in 2014. In 2014, Henry Schein reported almost $10.4 billion in net sales, which consisted of $5.4 billion in the dental marketplace. In that same Annual Report, they also proudly report that during 2014 they distributed approximately 31.7 million pieces of direct marketing material to existing and potential office-based health care customers.

In reviewing the original Complaint related to this matter the FTC alleged that in 2012, Schein introduced the Dentrix G5 software with a new database engine which was advertised to include encryption. This advertising was done even though as early as November of 2010, Schein was aware that the encryption did not comply with widely used industry standard encryption algorithms such as AES. Furthermore, prior to releasing the Dentrix G5 product, Schein either was or should have been aware of the fact that HHS directed health care providers to comply with the AES encryption standard recommended by NIST insofar as dentists complying with such encryption standard would be within a "safe harbor" under the HIPAA Breach Notification Rule if patient data was breached. For over two years after the release of the Dentrix G5 software, Schein continued to disseminate or cause to be disseminated advertising materials that emphasized Dentrix G5's ability to encrypt patient data and help dentists meet the regulatory obligations imposed by HIPAA. Further, in June of 2013, Schein knew that the "encryption" provided in the Dentrix G5 software was a weak obfuscation algorithm after a vulnerability alert was published by the United States Computer Emergency Readiness Team, which was confirmed in a further published vulnerability alert by NIST. On the cover of Schein's 2014 Annual Report in large font is the trademark tagline "Rely on Us". Considering the allegations, relying on Schein may have been a big mistake for tens of thousands of dentists.

Dentists and other health care professionals that use software products like Dentrix G5 in their practices generally establish a relationship with a vendor which then continues for many years. Software is upgraded and dentists and other health care professionals are forced, in most cases, to make a decision to accept the upgrade to continue with that particular vendor or go through the cost of transitioning to a different vendor. Dentrix G5 was offered to dentists that were already on a Schein platform and to new customers. While we don't know how many of the 31.7 million pieces of promotional materials distributed in one year by Schein included references to Dentrix G5 and encryption, I presume that there were thousands if not millions. Consequently, the scope of the notice to the affected customers should not only include those dentists that purchased Dentrix G5 software after it was introduced in 2012, but also any dentists that were existing customers of Henry Schein who upgraded to the Dentrix G5 software upon release. Both the dentists that were prior customers of Schein as well as dentists that were new customers of Schein were misled by the advertising. Had they known that the Dentrix G5 software did not meet the NIST encryption standards, some of these dentists (and perhaps many) would have opted to terminate their existing relationship with Schein and seek another vendors whose products were compliant or if they were not already customers of Schein had chosen alternative products from other vendors.

Penalties imposed by HIPAA and costs of dealing with breaches for failing to assure that patient data is in fact secure can be significant. Consequently, Schein's conduct should be viewed as egregious. Given the impact on the Affected Customers and in light of Henry Schein's dominant position in the marketplace, a fine of $250,000 is woefully inadequate to either deter further conduct by Henry Schein, or potentially compensate Affected Customers. The fine also sends an incredibly weak message to the industry which does nothing to deter others from engaging in other similar acts.

Had the Affected Customers known of the vulnerability that existed after Dentrix G5 was released in 2012, some customers would have opted to seek other vendors because they desired to fit within the HIPAA safe harbor. As a result these other vendors also were impacted as they likely lost potential business. If an Affected Customer chooses to migrate to a new vendor, these dentists would likely incur substantial costs in migrating data from one platform to another, as well as potentially having to acquire new hardware and perhaps even other software to conform to the new vendor's platform. Dentists who initially purchased Dentrix likely invested $10,000 -25,000 for software, installation and training, but they also invested in computer hardware, IT services and digital imaging equipment, probably all purchased from Schein, because of its compatibility with Dentrix. All told their investment in Dentrix and in connected hardware, equipment, and services could total tens of thousands and even over one hundred thousand dollars. Much if not all of this investment would be lost if they migrate to a new vendor. These are economic costs, both direct and indirect, which materially impact dentists. The proposed Agreement

and Order does nothing to require Schein to compensate any affected dentist who relied on Schein and now must migrate to a HIPAA encryption compliant platform. The Order should be mended to address, specifically, compensating those Affected Customers who may had had a data breach using Dentrix G5 or who choose to move away from the Schein platform after receipt of the notice.

The Order requires that Schein simply notify Affected Customers by a letter. While sending a letter to tens of thousands of dentists that upgraded to or bought Dentrix is an important way to inform those customers, the Schein sales force likely pitched Dentrix to other dentists that buy other services and products from Schein. As a result, all of Schein's customers should be informed as well as the general public. Tens of thousands of dentists equates to millions of patients, all of whom expect their patient data to be protected and encrypted. They do not expect vulnerabilities. All should know about Schein's conduct and that their data may not be secure.

Finally, Henry Schein, Inc. clearly markets and distributes its various products and the Dentrix Software in a coordinated way over and through its various subsidiaries and affiliates. Consequently, the Order should be amended to specifically name Henry Schein, Inc. in addition to Henry Schein Practice Solutions, Inc. and require Schein to make a public statement regarding this matter, as well as to post the details conspicuously on its website.