



Feb. 17, 2012

The Hon. Jon Leibowitz
Chairman
Federal Trade Commission
600 Pennsylvania Ave.
Washington, DC
20580

Re: Google's unfair and deceptive violation of Safari users' privacy and the company's apparent violation of the "Buzz" Consent Decree

Dear Chairman Leibowitz,

I am writing on behalf of Consumer Watchdog to ask the Federal Trade Commission to take immediate action against Google for using unfair and deceptive practices in violation of Section Five of the Federal Trade Commission Act in the way that it has violated peoples online privacy choices and falsely advised them about how to make opt-out choices. Google's actions also clearly violate the "Buzz Consent Agreement."

Google's violations came to light because of research by Jonathan Mayer of Stanford University's Security Lab, and the Center for Internet and Society. He found that Google has been circumventing a privacy setting in Apple's Safari web browser. Like most web browsers, Safari provides the option not to receive third-party "cookies." Cookies are small bits of code placed on a browser that can be used by ad networks to track you as you surf the web. Blocking third-party cookies is supposed to prevent such tracking. Safari is the only major browser that blocks third-party cookies by default. Safari is the primary browser on the iPhone and iPad.

The Stanford study (<http://webpolicy.org/2012/02/17/safari-trackers/>) found that Google's DoubleClick ad network was sending out software invisible to the user that circumvented the Safari setting and allowed a tracking cookie to be set. The study results were first reported in the Wall Street Journal.

(http://online.wsj.com/article_email/SB10001424052970204880404577225380456599176-1MyQjAxMTAyMDEwNjExNDYyWj.html?mod=wsj_share_email#articleTabs%3Darticle)

Safari users with the browser set to block third-party cookies, thought they were not being tracked. Nonetheless, because of an element invisible to the user, but designed to mimic a form, DoubleClick was able to set tracking cookies in an obvious violation of the set preference.

Making Google's actions even more outrageous is the false advice it gave to Safari users in describing how to permanently opt out of receiving targeted advertising. Google has developed a so-called browser "plugin" for Internet Explorer, Firefox and Google Chrome that makes the opt-out persistent. Google has not developed a plugin for Safari. The false advice Google gave Safari users follows:

“While we don’t yet have a Safari version of the Google advertising cookie opt-out plugin, Safari is set by default to block all third-party cookies. If you have not changed those settings, this option effectively accomplishes the same thing as setting the opt-out cookie.”

Google then explained how to verify the setting. View a screenshot of the Advertising Cookie Opt-out Plugin advice page taken on February 14 here:

http://www.consumerwatchdog.org/resources/screen_shot_2012-02-14_at_5.04.05_pm.png

But the advice was false. Google was lying. It was in fact circumventing the privacy choice and setting DoubleClick tracking cookies.

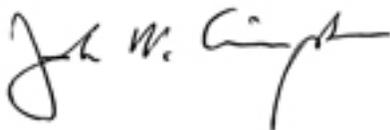
Clearly Google knows that it was in the wrong. After the company was confronted about the Stanford research, it changed its advice page, removing the specific references to Safari. View a screenshot of the sanitized Advertising Cookie Opt-out Plugin advice page taken on Feb. 15 here: http://www.consumerwatchdog.org/resources/screen_shot_2012-02-15_at_4.42.49_pm.png

Google’s behavior is clearly “unfair and deceptive,” but more than that, it violates the “Buzz” Consent Decree, which you reached with Google after it violated users privacy when it launched the Buzz social network. Section I begins: “It is ordered that respondent, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication: (A) the extent to which respondent maintains and protects the privacy and confidentiality of any covered information, including, but not limited to, misrepresentations related to: 1. The purposes for which it collects and uses covered information, and (2) the extent to which consumers may exercise control over collection, use, or disclosure of covered information.”

Google falsely told Safari users that they could control the collection of data by ensuring that third-party cookies were blocked, when in fact Google was circumventing the preference and setting tracking cookies.

The Stanford research identified three other companies – Vibrant Media Inc., WPP PLC's Media Innovation Group LLC and Gannett Co.'s PointRoll Inc. – that were circumventing Safari privacy preferences. They should be closely investigated as well. However, given Google’s dominance of online and mobile advertising and the fact that the company’s actions flagrantly violate its consent agreement with the Commission, I call on you to focus immediate attention on the Internet giant.

Sincerely,



John M. Simpson
Privacy Project Director

Cc: Commissioner J. Thomas Rosch; Commissioner Julie Brill; Commissioner Edith Ramirez; David Vladeck, Director Bureau of Consumer Protection