



February 23, 2009

Eric Schmidt  
Google Inc.  
1600 Ampitheatre Parkway  
Mountain View, CA 94043

Dear Mr. Schmidt,

We have tried to constructively engage Google on its privacy problems for about six months now. So it's remarkable that Google's most rapid and substantive response to our privacy concerns is a letter from your director of Corporate and Policy Communications to the charity funding our work seeking an end to its support. (See attached emails.)

One would think Google's top executives have more important priorities than defunding a consumer group critical of your lack of privacy protections. Nonetheless I am writing to offer some observations about Google's less than open corporate culture, its opaque public policymaking division and some suggestions for change and moving forward.

Mr Boorstin hung up on me both times I reached him by phone, refusing to enter a dialogue. His apparent gripe, according to his email exchange with the Rose Foundation, our charitable funder, and Google's public policy blog post, is Consumer Watchdog's concerns about Google's "rumored lobbying" efforts on the medical privacy provisions of the economic stimulus bill.

As our staff and other consumer advocates sought stronger privacy protections in the stimulus bill on Capitol Hill, they were told Google was lobbying to weaken the current prohibition on the sale of medical records and shave off protections. Google's public policy blog claims this is "100% false." Nonetheless an independent journalist, George Lauer, iHealthBeat Features Editor, wrote on January 30 that "[t]wo other privacy advocates and a Congressional staffer who did not want to go on record said they have heard reports of Google representatives contacting Congress members' offices." Lauer's article is available at: <http://tinyurl.com/cwsgx4> We have since asked Mr. Boorstin via letter to explain Google's policy position on the medical privacy provisions, but have received no response other than his outreach to the Rose Foundation seeking to end our funding.

The public record shows that Google has actively lobbied on electronic medical record legislation in the past, which contains provisions similar to those in the current stimulus bill. Google's fourth quarter 2008 lobbying report and those of its hired lobbyists, Podesta Group and King&Spalding, make reference to H.R. 6357, which is the precursor to the stimulus medical privacy provisions at issue. The reports do not show what positions Google advocated and your public policy team appears unwilling to disclose its Congressional communications and positions on this privacy legislation.

For a company that states “our corporate mission is to organize the world’s information and make it universally accessible and useful,” the degree of secrecy that surrounds Google’s public policy positions about privacy issues is deeply troubling.

Why will Google not disclose all the specific public policy communications it makes to Congress, regulatory agencies and the white house on matters of medical and personal privacy? Failing to do so is incompatible with the portrait Google paints of itself publicly.

Google has always said it was a different type of company. Our recent experience is that Google’s culture is no different than others that Consumer Watchdog has reformed. Insurers who succumbed to the regulation in insurance reform Proposition 103 because they wouldn’t concede to voluntary and legislative reform. The HMOs who had to comply in 43 states with a patients bill of rights because they wouldn’t treat patients better and listen to their doctors. These companies and the politicians beholden to them refused serious dialogue, denied problems existed and focused their energy instead on trying to put us out of business. In the end they failed and reform succeeded.

Goliath companies always believe they can crush their critics, but they give more power to reformers by ignoring their concerns, when our criticisms are based on important, popular values like privacy.

We are happy to deal with Google’s privacy problems in the ballot initiative process, the legislative processes, and courts of law and public opinion. We find it far more useful to be clear about our objectives before these means become necessary. We have tried. Google has thus far refused, despite the long-running claim that you would listen and hear our concerns.

We will issue a report shortly about our privacy concerns with your wide range of products and services. Preliminarily, however, there are suggestions I hope you take to heart, since they are based on our area of expertise, corporate reform and civic responsibility, not the technological arena that Google has mastered.

**Google should openly disclose all your lobbying positions on Capitol Hill.** Google should publish all of its correspondence and policy communications to legislators, as we do, and as a way of practicing the open information culture it preaches. In Washington, unlike California, policy positions are often written on blank pieces of paper untraceable to the corporate authors. This is incompatible with Google’s vision for the world. In fact, the final stimulus law subjects Google to the requirements that breaches of electronic medical records be reported to patients – the first time that such requirements have been extended beyond health care professional to vendors of electronic medical records. It’s vital the public and users of Google Health know if Google will lobbying on technical clean-up legislation in the coming weeks with the goal of eviscerating these standards.

**Google should create a Chief Privacy Ombudsman, independent of your corporate structure and general counsel, that reports directly to you and the board of directors.** The fact that Mr. Boorstin stopped any discussions and forward momentum on the privacy issues we raised is a good example of how lower level managers, threatened by new ideas, can quell corporate growth and transcendence. A privacy ombudsman, dedicated not to the bottom line or a legislative agenda, but to honest dialogue about privacy would speak frankly to your board and serve you well.

A Consumer Watchdog privacy report card on your products and services will be forthcoming for the public and Congress. We would welcome your input should you wish to engage us. Otherwise we will make the best calls we can with the public information we have. The ball is in your court.

Sincerely,

A handwritten signature in cursive script that reads "Jamie".

Jamie Court  
President  
(310) 392-0522 ext 327