



April 30, 2012

Sen. Al Franken
Chairman
Senate Judiciary Committee Subcommittee On Privacy, Technology and the Law
309 Hart Senate Office Building
Washington, DC 20510

Dear Sen. Franken:

I am writing on behalf of Consumer Watchdog to urge you to hold a hearing into the Google Wi-Spy incident that will finally get to the bottom of what was the largest wiretapping effort in history. The Subcommittee On Privacy, Technology and the Law should subpoena the key figure in the scandal, known as Engineer Doe, and offer him immunity for his testimony. In addition Google CEO Larry Page should be called to explain the lack of corporate control within Google that allowed the Wi-Spy debacle.

As you know, Google's Street View Cars sucked up messages – so-called “payload data” – from private Wi-Fi networks in 30 countries around the world as the vehicles photographed the streets they traveled starting in 2008.

Google has repeatedly misrepresented what it did and changed its story of what happened. Now, as revealed in a Federal Communications Commission Notice of Apparent Liability For Forfeiture, it is clear that the Internet giant “willfully and repeatedly violated Commission orders to produce certain information and documents that the Commission required for its investigation.”

Google is paying a \$25,000 fine for its noncompliance and is trying to portray the FCC order as exonerating the company. That is not the case at all. The FCC order shows that substantial questions about the Wi-Spy scandal remain unanswered and that is largely because the engineer responsible for writing the code that gathered payload data invoked his Fifth Amendment right not to testify.

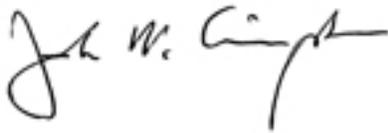
The FCC order shows a troubling a portrait of a company where an engineer could run wild with software code that violates the privacy of tens of millions of people worldwide, but the corporate culture of “Engineers First” prevented corporate counsel or other engineers from stopping the privacy violations.

As the FCC order reveals, as early as 2007 or 2008 Street View team members had wide access to Engineer Doe's design document and code in which the plan to intercept “payload data” was spelled out. One engineer reviewed the code line by line, five engineers pushed the code into Street View cars and, according to the FCC, Engineer Doe specifically told two engineers working on the project, including a senior manager about collecting “payload data.” Nonetheless, they all claim they did not learn payload data was being collected until April or

May 2010. There is no believable explanation for this. Clearly the Street View team knew or should have known that payload data was being intercepted.

I urge your Subcommittee to subpoena the engineer, identified in the FCC order as Engineer Doe, and grant him immunity for his testimony. Immunity from prosecution for his testimony is a small price to pay so the American people can finally understand what actually transpired. In addition the committee should subpoena Google CEO Page and ask him to explain the corporate culture that allowed Wi-Spy to happen.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Simpson". The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

John M. Simpson
Privacy Project Director