



May 5, 2011

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

Dear Chairman Leibowitz,

We are writing to ask the Federal Trade Commission to investigate an unfair and deceptive trade practice committed by Google in the marketing of its “cloud computing” services to government entities. The company has been marketing its Google Apps for Government service claiming “Secure applications to meet the needs of Government/ Google Apps for Government, now with FISMA certification.” (<http://www.google.com/apps/intl/en/government/trust.html>.) A screenshot of the Web page taken on May 5, 2011 is enclosed.

In addition, we also believe Google’s actions are in violation of the recent consent agreement in the “Buzz” case.

U.S. Government customers must comply with Federal Information Security Management Act (FISMA) requirements by law, so FISMA certification and accreditation is essential for Google to sell its suite of applications to government agencies.

Unfortunately, despite the claims on its Web page, the General Services Administration has not granted FISMA certification to Google Apps for Government. In a sworn deposition filed on April 26 in the U.S. Court of Federal Claims, Case # 1:10-cv-00743-SGB, David L. McClure, Associate Administrator for the Office of Citizen Services and Innovative Technologies of the GSA, stated:

“I was informed that GSA became aware of this offering in December 2010, and undertook a review of Google Apps for Government to determine whether any difference between the two Google products required a new FISMA certification for Google Apps for Government. While I have no direct responsibility for the review process, it is my understanding that the process is ongoing and that no final determination has been made by GSA regarding FISMA certification for Google Apps for Government.

“In the time since my Senate testimony, I have had further conversations with Ms. Coleman and other GSA employees responsible for the FISMA review process. My understanding from these conversations is that my Senate testimony was accurate and that, as indicated in the previous paragraph, the review process for Google Apps for Government continues.”

In its marketing material Google clearly claims to have important security certification it does not possess. While Google may ultimately win FISMA certification, it has not received it yet. A company may be optimistic about the ultimate approval of a product, but claiming to have certification when the process has not been completed is unfair and deceptive.

Making Google's violation even more egregious is the proposed consent agreement that resulted from the launch of its "Buzz" network. The agreement reads:

"It is ordered that the respondent, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication:

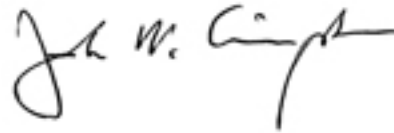
"B. the extent to which respondent is a member of, adheres to, complies with, is certified by, endorsed by, or otherwise participates in any privacy, security or any other compliance program sponsored by the government or any other entity..."

We urge you to impose the strongest sanctions possible on Google in light of this latest misrepresentation. If you do not, Google will have the impression that it may flout the terms of the Buzz agreement before the ink is barely dry.

Sincerely,



Jamie Court
President



John M. Simpson
Privacy Project Director

Cc: David Vladeck, Director Bureau of Consumer Protection