Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Tennessee Football, Inc., File No. 142 3032

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, a consent agreement applicable to Tennessee Football, Inc. ("the Tennessee Titans").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that the Tennessee Titans made to consumers concerning their participation in the Safe Harbor privacy framework ("Safe Harbor") agreed upon by the U.S. and the European Union ("EU") ("U.S.-EU Safe Harbor Framework"). It is among several actions the Commission is bringing to enforce the promises that companies make when they certify that they participate in the Safe Harbor Framework. The Safe Harbor framework allows U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor framework, a company must self-certify to the U.S. Department of Commerce ("Commerce") that it complies with a set of principles and related requirements that have been deemed by the European Commission as providing "adequate" privacy protection. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the Safe Harbor framework. The listing of companies indicates whether their self-certification is "current" or "not current." Companies are required to re-certify every year in order to retain their status as "current" members of the Safe Harbor framework.

The Tennessee Titans are a professional football team and a member of the National Football League. According to the Commission's complaint, from August 2005 until November 2013, the Tennessee Titans set forth on their website, www.titansonline.com, privacy policies and statements about their practices, including statements related to their participation in the U.S-EU Safe Harbor Framework.

The Commission's complaint alleges that the Tennessee Titans falsely represented that they were a "current" participant in the Safe Harbor when, in fact, from August 2009 until November 2013, the Tennessee Titans were not a "current" participant in the U.S.-EU Safe Harbor Framework. The Commission's complaint alleges that in August 2005, the Tennessee Titans submitted a Safe Harbor self-certification. The Tennessee Titans did not renew the self-certification in August 2009, and Commerce subsequently updated the Tennessee Titans' status to "not current" on its public website.

Part I of the proposed order prohibits the Tennessee Titans from making misrepresentations about their membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the U.S.-

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires the Tennessee Titans to retain documents relating to compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that the Tennessee Titans submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.