

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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In the Matter of)	
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ELI LILLY and COMPANY,)	DOCKET NO.
a corporation.)	
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)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Eli Lilly and Company, a corporation (“respondent”) has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Eli Lilly and Company is an Indiana corporation with its principal office or place of business at Lilly Corporate Center, Indianapolis, Indiana 46285. Respondent, a pharmaceutical company, has advertised and promoted its anti-depressant medication, Prozac, through the company’s Web sites www.prozac.com and www.lilly.com.
2. The acts and practices of respondent as alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
3. Respondent promotes its Prozac.com Web site as “Your Guide to Evaluating and Recovering from Depression.” From March 15, 2000 until June 22, 2001, respondent advertised, promoted, and marketed via www.Prozac.com and www.Lilly.com an email reminder service known as “Medi-messenger.” Consumers who utilized the Medi-messenger service could design and receive personal email reminder messages from respondent concerning their medication or other matters. Once a visitor registered for Medi-messenger, the reminder messages were automatically emailed from Prozac.com to the subscriber at the email address s/he provided, and according to the schedule established by the subscriber.
4. Subscribers to the Medi-messenger service registered by providing an email address, a password, the text of the reminder message they wanted to receive, and the schedule for sending the reminder messages. (Complaint Exhibit A, pp.1-4). After providing information to register for Medi-messenger, the subscriber was invited to view the Prozac.com “Privacy Statement” via a hyperlink, which was positioned just above the “Submit” and “Reset” buttons. (Complaint Exhibit A, p.4)

5. Respondent has disseminated or has caused to be disseminated privacy policies on Prozac.com and Lilly.com, including but not necessarily limited to the attached Exhibits B and C. These privacy policies contain the following statements regarding the privacy and confidentiality of personal

time, we may refer to Your Information to better understand your needs and how we can improve our Web sites, products and services. Any and all uses would comply with all applicable laws. We may also use Your Information to contact you in connection with your requests.

* * *

Our Web sites have security measures in place, including the use of industry standard secure socket layer encryption (SSL), to protect the confidentiality of any of Your Information that you volunteer; however, to take advantage of this your browser must support encryption protection (found in Internet Explorer release 3.0 and above).”

Exhibit C: “Lilly: Privacy,” <http://www.lilly.com/privacy.html>.

6. On June 27, 2001, at respondent’s direction, an Eli Lilly employee sent an email message to Medi-messenger subscribers announcing the termination of the Medi-messenger service. To do this, the employee created a new computer program to access subscribers’ email addresses and send them the email. The June 27th email disclosed the email addresses of all 669 Medi-messenger subscribers to

