

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Jon Leibowitz, Chairman**  
                                 **William E. Kovacic**  
                                 **J. Thomas Rosch**  
                                 **Edith Ramirez**  
                                 **Julie Brill**

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**In the Matter of**

**CHITIKA, INC.,**  
**a corporation.**

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**DOCKET NO: C-4324**

**n for its consideration and which, if issued, would ch**

**the respondent with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 et seq.**

The respondent and counsel for the Commission h.00 TD j6.3600 0.0000 TD (f5Ct0 TD j6.3600 0.

1. Respondent Chitika, Inc. ("Chitika") is a Delaware corporation with its principal office or place of business at 800 West Park Drive, Westborough, Massachusetts, 01581.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceedings in the public interest.

## ORDER

### DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, "respondent" shall mean Chitika, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees.
2. "Clearly and prominently" shall mean:
  - A. In textual communications (e.g., printed publications or words displayed on the screen of a computer or mobile device), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts highly with the background on which they appear;
  - B. In communications disseminated orally or through audible means (e.g., radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
  - C. In communications disseminated through video means (e.g., television or streaming video), the required disclosures are in writing in a form consistent with subparagraph (A) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication; and
  - D. In all instances, the required disclosures: (1) are presented in an understandable language and syntax; and (2) include nothing contrary to, inconsistent with, or in mitigation of any other statements or disclosures provided by respondent.
3. "Commerce" shall be defined as it is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
4. "Computer" or "device" shall mean any desktop or laptop computer, handheld device, telephone, or other product or device through which a consumer can access the Internet.

5. "Collection of data" or "collecting data" shall mean the practice of receiving any information or data from a computer or device, whether transmitted by a web browser or otherwise, and retaining that information, whether on the user's computer or on a server. "Data collected" shall mean any information or data received from a computer or device, whether transmitted by a web browser or otherwise, and retained, whether on the user's computer or respondent's server(s).
6. "Chitika user" shall mean any consumer, computer, or device that respondent has uniquely identified.
7. "Online behavioral advertising" shall mean the practice of tracking a consumer's online activities in order to deliver advertising targeted to the individual consumer's interests.

### I.

**IT IS ORDERED** that respondent, directly or through any corporation, subsidiary, division, website, third party, or other means, in connection with the online advertising, marketing, promotion, offering for sale, sale, or dissemination of any product or service, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication: (A) the extent to which consumers may exercise control over the collection, use, disclosure, or sharing of data collected from or about them, their computers or devices, or their online activities, or (B) the extent to which data from or about a particular consumer, computer or device is collected, used, disclosed, or stored.

### II.

**IT IS FURTHER ORDERED** that respondent, directly or through any corporation, subsidiary division, website, third party or other means, in connection with the online advertising, marketing, promotion, offering for sale, sale, or dissemination of any product or service on websites other than respondent's, in or affecting commerce, shall:

- A. Within thirty (30) days after the date of service of the order, place a clear and prominent notice, including hyperlink, on the homepage(s) of its website(s), which states, "We collect information about your activities on certain websites to send you targeted advertisements. To opt out of Chitika's targeted ads, click [here](#)" When selected, the hyperlink shall directly take consumers to the mechanism required by Part I.C. of the order.
- B. Within thirty (30) days after the date of service of the order, for a duration of twelve (12) months, include immediately after the notice required by Part I.A. of the order, the following statement: "If you opted out of our targeted ads before March 1, 2010, the opt-out has expired and you must opt out again to avoid targeted ads.";
- C. Within thirty (30) days after the date of service of the order, provide a mechanism, separate and apart from any preferences or controls offered by

consumers browses, to enable Chitika users to prevent respondent from collecting data that can be associated with a Chitika user a Chitika uses' computer or device or that contains any unique identifier, including Chitika user ID or Internet Protocol (IP) address; from redirecting Chitika users' browsers to third parties that collect data, absent a click or other affirmative action by such Chitika user; and from associating any previously collected data with any Chitika user's computer or device. This mechanism shall require no more than one additional click for consumers to exercise their choice(s), and shall remain in effect for a minimum time period of five (5) years, unless the consumer deletes his or her cookies or takes deliberate action to disable the mechanism. Within close proximity to the mechanism, respondent shall clearly





Provided, further, that if such complaint is dismissed or if a court rules that the respondent did not violate any provision of the order and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that this order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling or the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark  
Secretary

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ISSUED: June 7, 2011