

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
J. Thomas Rosb
Edith Ramirez
Julie Brill

In the Matter of)
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)
GOOGLE INC.,)
a corporation.)
_____)

DOCKET NO. C-4336

COMPLAINT

The Federal Trade Commission, having reason to believe that Google Inc. ("Google" or "respondent"), a corporation, has violated the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Google is a Delaware corporation with its principal office or place of business at 1600 Amphitheater Parkway, Mountain View, CA 94043.
2. The acts and practices of respondent as alleged in this complaint have been or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act.

RESPONDENT'S BUSINESS PRACTICES

3. Google is a technology company best known for its web-based search engine, which provides free search results to consumers. Google also provides various free web products to consumers, including its widely used web-based email service, Gmail, which has been available since April 2004. Among other things, Gmail allows consumers to send and receive emails, chat with other users through Google's instant messaging service Google Chat, and store email messages, contact lists, and other information on Google's servers.
4. Google's free web products for consumers also include: Google Reader, which allows users to subscribe to, read, and share content online; Picasa, which allows users to edit, post, and share digital photos; and Blogger, Google's weblog publishing tool that allows users to share text, photos and video.

5. Google also offers consumers the ability to create a "Google profile," which enables them to make certain information about themselves public and to link to their content on Google product websites, such as the user's Google Reader shared items, public Picasa Web Albums, and Blogger blog. Information on a consumer's public Google profile, which may include the consumer's name, location, and photo, is available on the Internet and may be indexed by search engines.

RESPONDENT'S STATEMENTS

6. Respondent has disseminated false and misleading statements to consumers on its website regarding its privacy practices, including but not limited to:

- a. From approximately October 2004 until October 2010, the following statement in the Gmail Privacy Policy about Google's use of consumer information provided through Gmail:

Gmail stores, processes and maintains your messages, contact lists and other data related to your account in order to provide the service to you.

- b. From approximately October 2005 until October 2010, the following statement in Google's Privacy Policy regarding consumers' choices about the uses of their personal information in all of Google's products, including Gmail:

When you sign up for a particular service that requires registration, we ask you to provide personal information. If we use this information in a manner different than the purpose for which it was collected, then we will ask for your consent prior to such use.

RESPONDENT'S LAUNCH OF GOOGLE BUZZ

7. On February 9, 2010, Google launched a social networking service called Google Buzz ("Google Buzz" or "Buzz") within the Gmail product. Google Buzz is a platform that allows users to share updates, comments, photos, videos, and other information through posts or "buzzes" made either publicly or privately to individuals or groups of users. Google used the information of consumers who signed up for Gmail, including first and last name and email contacts, to populate the social network. Without prior notice or the opportunity to consent, Gmail users were, in many instances, automatically set up with "followers" (people following the user). In addition, after enrolling in Buzz, Gmail users were automatically set up to "follow" other users.
8. On the day Buzz was launched, Gmail users who signed into their accounts were taken to a welcome screen that announced the new service and highlighted features such as "No set up needed – You're already following the people you email and chat with the most in

Gmail.” Gmail users had to elect one of two options to proceed to their inboxes: “Sweet! Check out Buzz” or “Nah, go to myinbox.” Exhibit A shows how the initial Buzz screen appeared to consumers.

- a. If a Gmail user selected “Nah, go to myinbox” from the initial Buzz screen, that user’s information was nonetheless shared in a number of ways:
 - i. The user could be “followed” by other Gmail users who had enrolled in Buzz.
 - ii. If the user had previously created a public Google profile, the user could appear on the public Google profiles of people who had enrolled in Buzz and were following the user.
 - iii. A Buzz link would appear in the list of links on the user’s Gmail page. If the user clicked on the link,

- b. Users could not block followers who did not have public Google profile. Moreover, an individual who had not provided first or last name when setting up a Google account would appear as an “unknown” follower to a user. The user

networking service. Therefore, the representations set forth in paragraph 13 were, and are, false and misleading and constitute a deceptive act or practice.

15. As set forth in paragraph 6(b), respondent has represented, expressly or by implication, that it would seek consumers' consent to use information they provided for a purpose other than that for which it was collected.

21. To satisfy the EU's adequacy standard for certain commercial transfers, the U.S. Department of Commerce ("Commerce") and the EC negotiated the U.S.-EU Safe Harbor Framework, which went into effect in 2000. The Safe Harbor is a voluntary framework that allows U.S. companies to transfer personal data lawfully from the EU to the U.S. To join the Safe Harbor, a company must self-certify to Commerce that it complies with seven principles and related requirements that have been deemed to meet the EU's adequacy standard.
22. The Safe Harbor privacy principles, issued by Commerce on July 21, 2000, include the following:

NOTICE: An organization must inform individuals about the purposes for which it collects and uses information about them, how to contact the organization with any inquiries or complaints, the types of third parties to which it discloses the information, and the choices and means the organization offers individuals for limiting its use and disclosure. This notice must be provided in clear and conspicuous language when individuals are first asked to provide personal information to the organization or as soon thereafter as is practicable, but in any event before the organization uses such information for a purpose other than that for which it was originally collected or processed by the transferring organization or discloses it for the first time to a third party.

CHOICE: An organization must offer individuals the opportunity to choose (opt out) whether their personal information is (a) to be disclosed to a third party or (b) to be used for a purpose that is incompatible with the purpose for which it was originally collected or subsequently authorized by

other than that for which it was originally collected. Respondent also did not give Gmail users choice about using their information for a purpose that was incompatible with the purpose for which it was originally collected. Therefore, the representations set forth in paragraphs 23 and 24 were, and are, false or misleading and constitutes a deceptive act or practice.

26. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this thirteenth day of October, 2011, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary