



Office of the Secretary

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

February 20, 2013

Mr. Marc Rotenberg, Executive Director
Mr. David Jacobs, Consumer Protection Counsel
Ms. Khaliah Barnes, Administrative Law Counsel
Electronic Privacy Information Center
1718 Connecticut Ave., NW
Suite 200
Washington, DC 20009

Re: In the Matter of Compete, Inc., File No. 1023155, Docket No. C-4384

Mr. Rotenberg, Mr. Jacobs and Ms. Barnes:

Thank you for your comment, on behalf of the Electronic Privacy Information Center (“EPIC”), regarding the Federal Trade Commission’s consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission’s Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

Your comment notes EPIC’s support for the settlement with Compete, Inc. (“Compete”). Your comment also recommends that the Commission implement certain measures addressing privacy and security in general, and recommends a change to the proposed order. We discuss these below.

First, your comment expresses support for the complaint allegation that Compete deceptively omitted material information, and requests that – separate from this proposed order – the Commission amend its Policy Statement on Deception to “explicitly categorize omissions impacting consumer privacy as deceptive under Section 5.” As defined in the Policy Statement on Deception, appended to *Cliffdale Associates, Inc.*, 103 F.T.C. 110, 174 (1984), a “misleading omission occurs when qualifying information necessary to prevent a practice, claim, representation, or reasonable expectation or belief from being misleading is not disclosed.” *Id.* at n.4. The Commission has made omissions in a number of privacy-related cases. *See, e.g., Sears Holdings Mgmt. Corp.*, FTC Docket No. C-4264 (Aug. 31, 2009) (final consent order); *Facebook, Inc.*, FTC Docket No. C-4363 (Aug. 10, 2012) (final consent order). The Policy Statement is a broad document that sets forth the Commission’s general approach to deceptive acts or practices with respect to all types and aspects of business activities. Accordingly, we do not believe that revising the Policy Statement to refer specifically to particular areas of business activity is appropriate. The FTC endeavors to provide more specific
