



Dear Mr. Miles:

Thank you for your comment regarding the Federal Trade Commission's proposed consent agreement in the above entitled proceeding. The Commission has placed your comment on the public record pursuant to rule 4.9(b)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(ii), and has given it serious consideration.

Your comment urges the Commission to impose a fine on Epic Marketplace, Inc. and Epic Media Group, LLC (collectively "Epic"). The complaint in this matter alleges violations of Section 5 of the FTC Act, under which the Commission does not have the authority to seek civil penalties. However, the Commission is committed to safeguarding consumer privacy and believes the proposed order provides strong protection for consumers. In particular, Epic from history sniffing

collected using history sniffing. It also prohibits Epic from misrepresenting the extent to which it maintains the privacy and confidentiality of data about particular consumers, and the extent to which software code on a webpage determines whether a user has previously visited a webpage. Once the order becomes final, Epic will risk civil penalties of up to \$16,000 per violation of any term of the order, or up to \$16,000 per day in the case of continuing violations (as provided by Section 5(l) of the FTC Act, 45 U.S.C. § 45(l), as adjusted by CFR 1.98(d)).

In addition, your comment asks that, if possible, criminal sanctions be imposed. The Commission is a civil law enforcement agency, and thus does not have the authority to bring criminal charges or impose criminal penalties.

Having considered all the facts of t