

Dissenting Statement of Commissioner Jon Leibowitz
In Re DirectRevenue LLC, et al., File No. 052 3131

¹ On a separate note, I want to commend the New York Attorney General's office for its recent ground-breaking settlements – which included monetary relief – with Priceline, Travelocity, and Cingular Wireless in the context of its litigation against DirectRevenue. Among other things, the settlements require the companies to do due diligence before advertising via adware, and periodically follow up to see how their online ads are being delivered. These settlements are important because advertising dollars fuel the demand side of the nuisance adware problem by giving companies like DirectRevenue and their affiliates and sub-affiliates the incentive to expand their installed base, with or without consumers' consent.

I recognize that staff was able to negotiate comprehensive injunctive relief that will halt these illegal practices once and for all. The proposed order, among other things, requires DirectRevenue to co-brand advertisements it serves and provide an effective method to uninstall their software – steps that should allow consumers unhappy with the pop-ups to identify their source and remove the software that generates them. Other provisions ensure that consumers get to choose the software that generates them. Other provisions ensure that consumers get to choose the software that generates them.

² See, e.g., Brad Stone, *Invasion of the PC Snatchers*, Newsweek (Dec. 13, 2006), available at <http://www.msnbc.msn.com/id/6653413/site/newsweek/>.