

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

In the Matter of)
)
Fantage.com, Inc.,) DOCKET NO. C-4469
a corporation.)
)
_____)

COMPLAINT

The Federal Trade Commission, having ~~causes~~ believe that Fantage.com, Inc., a corporation, has violated the Federal Trade Commission Act ("FTCA"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Fantage.com, Inc. ("Fantage") is a New Jersey corporation with its principal office or place of business at 400 Kelby Street, 10th Floor, Fort Lee, New Jersey 07024.
2. Respondent developed and operates a massively multiplayer online role-playing game directed at children ages 6-16.
3. The acts and practices of respondent as alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act.
4. Respondent has set forth on its website, www.fantage.com, privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor privacy framework agreed upon by the U.S. and the European Union ("U.S.-EU Safe Harbor Framework").

The Framework

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Among other things, it requires EU Member States to implement legislation that prohibits the transfer of personal data outside the EU, with exceptions, unless the European Commission (“EC”) has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU’s “adequacy” standard.

6. To satisfy the EU 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 U.S.-EU Safe Harbor Framework allows U.S. companies to transfer personal data lawfully to the EU. To join the U.S.-EU Safe Harbor Framework, a company must self-certify to Commerce that it complies with seven principles and related requirements that have been determined to meet the EU’s adequacy standard.
7. Companies under the jurisdiction of the U.S. Federal Trade Commission (“FTC”), as well as the U.S. Department of Transportation, are eligible to join the U.S.-EU Safe Harbor Framework. A company under the FTC’s jurisdiction that claims it has self-certified to the Safe Harbor principles, but failed to self-certify to Commerce, may be subject to an enforcement action based on the FTC’s deception authority under Section 5 of the FTC Act.
8. Commerce maintains a public website www.export.gov/safeharbor where it posts the names of companies that have self-certified to the U.S.-EU Safe Harbor Framework. The listing of companies indicates whether the self-certification is “current” or “not current” and a date

12. Through the means described in Paragraph 11, respondent represents, expressly or by implication, that it is a "current" participant in the U.S.-EU Safe Harbor Framework.
13. In truth and in fact, from June 2012 until January 2014 respondent was not a "current" participant in the U.S.-EU Safe Harbor Framework. Therefore, the representation set forth in Paragraph 12 was false and misleading.
14. The acts and practices of respondent as alleged in this complaint constitute 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 nineteenth day of June, 2014, has issued this complaint against respondent.

By the Commission, Commissioner McSweeney not participating.

Donald S. Clark
Secretary

SEAL: