



Office of the Secretary

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

June 19, 2014

Robert Gellman
Privacy and Information Policy Consultant
419 Fifth Street, SE
Washington, D.C. 20003

Re: In the Matter of Apperian, Inc., File No. 1423017; Atlanta Falcons Football Club LLC , File No. 1423018; Baker Tilly Virchow Krause, LLP, File No. 1423019; BitTorrent, Inc., File No. 1423020; Charles River Laboratories International, Inc., File No. 1423022; DataMotion, Inc., File No. 1423023; DDC Laboratories, Inc., File No. 1423024; Level 3 Communications, LLC, File No. 1423028; PDB Sports, Ltd. d/b/a Denver Broncos Football Club, File No. 1423025; Reynolds Consumer Products Inc., File No. 1423030; The Receivable Management Services Corporation, File No. 1423031; and Tennessee Football, Inc., File No. 1423032.

Dear Mr. Gellman:

Thank you for your comment regarding the Commission's recent orders. You express concern that: 1) the complaints lack detail; 2) the Commission did not assess the companies' compliance with the substantive Safe Harbor privacy requirements; 3) the consent orders are too narrow and do not provide adequate relief or deterrent effect; and 4) the Commission's commitment to enforcing the Safe Harbor framework is not the most efficient use of its resources.

Your comment states "there are virtually no facts in the complaint or consent decree that would enable the public to evaluate the extent of the misrepresentation." We respectfully disagree. The complaints provide the necessary information to support the law violations alleged. These complaints contain a single allegation that Respondents engaged in deceptive practices by falsely representing, either expressly or by implication, that they were current participants in the Safe Harbor framework, when, in fact, each company had allowed its self-

certification to lapse.¹ To support this allegation, the complaints explicitly recite the misrepresentations Respondents made and the length of time that each Respondent made the false representations. The proposed complaints do not allege that Respondents substantively violated any of the privacy principles of the Safe Harbor framework or that personal data was at risk.

These cases demonstrate that the Commission takes seriously misrepresentations about membership in the Safe Harbor. However, the Commission is also interested in ensuring that companies abide by the substantive Safe Harbor promises they make. As a matter of course, the Commission's privacy investigations under Section 5 of the FTC Act of companies that claim Safe (p 8onaoA9)-6(c)4(t)STj (T)Tj-3 c-1(s)-1(un)2(s3(e)4v)-1(s)-1(u)-1(a)4(l)-2((a)4(nd t))-6(c)4(t)-2.15 TT

As you point out in your comment, the Commission does a remarkable amount of work with relatively limited resources. We are a small agency with a broad mandate. Enforcement of the Safe Harbor

proceedings in final form without any modifications. The final Decision and Orders and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work, and it thanks you again for your comment.

By direction of the Commission, Commissioner McSweeney not participating. 07/0