ANALYSIS OF PROPOSED CONSENT ORDER TO
AID PUBLIC COMMENT
In the Matter of Jubilant Clinsys, Inc., File No. 152 3140

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, a consent agreement applicable to Jubilant Clinsys, Inc. ("Jubilant Clinsys").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Jubilant Clinsys made to consumers concerning its participation in the Safe Harbor privacy framework agreed upon by the U.S. and the European Union ("EU") ("U.S.-EU Safe Harbor Framework"). The U.S.-EU Safe Harbor Framework allows U.S. companies to transfer data outside the EU consistent with EU law. To join the U.S.-EU Safe Harbor Framework, a company must self-certify to the U.S. Department of Commerce ("Commerce") that it complies with a set of principles and related requirements that have been deemed by the European Commission as providing "adequate" privacy protection. These principles include notice, choice, onward transfer, security, data integrity, access, and enforcement. 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 their self-certification is "current" or "not current." Companies are required to re-certify every year in order to retain their status as "current" members of the U.S.-EU Safe Harbor Framework.
biotechnology and medical device companies with services in support of drug and device development. According to the Commission's complaint, Jubilant Clinsys has set forth on its website,
http:n'otww.clinsys.com/index.php?option=com_content&view=article&id=8&Itemid=19

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privacy policies and statements about its practices, including statements related to its participation in the U.S-EU Safe Harbor Framework.

The Commission's complaint alleges that Jubilant Clinsys falsely represented that it was a "current" participant in the U.S.-EU Safe Harbor Framework when, in fact, from November 2012 through April 2015, Jubilant Clinsys was not a "current" participant in the U.S.-EU Safe Harbor Framework. The Commission's complaint alleges that in November 2007, Jubilant Clinsys submitted its self-certification to the U.S.-EU Safe Harbor Framework. Jubilant Clinsys did not renew its self-certification in November 2012 and Commerce subsequently updated Jubilant Clinsys' status to "not current" on its public website.

Part I of the proposed order prohibits Jubilant Clinsys from making misrepresentations about its membership in any privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires Jubilant Clinsys to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that Jubilant Clinsys submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.