



Office of the Secretary

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

May 20, 2016

Jay Corley
Blue Stone Dental
State of Texas

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Mr. Corley:

Thank you for your comment on behalf of Blue Stone Dental regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law

violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

¹ See also 16 C.F.R. § 1.98(c).



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FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

May 20, 2016

Hughey
Commonwealth of Pennsylvania

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

Dear Commenter Hughey:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. Your comment also expresses concern that the proposed order will not sufficiently deter the alleged unlawful conduct. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and suffi



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May 20, 2016

Johnson
State of Oregon

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161, C-4575

number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

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WASHINGTON, D.C. 20580

May 20, 2016

Mohsin Khan
State of Illinois

Re: In the Matter of Henry Schein Practice Solutions, Inc.,

Second, your comment asks about the FTC's enforcement strategy with respect to providers including what, if any, consideration the Commission would give to a provider's reliance on representations by a vendor that its products meet electronic protected health information (ePHI) security requirements. The Commission issues an administrative complaint when it has reason to believe that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest.¹ In this case, the Commission alleges that Henry Schein disseminated or caused to be disseminated promotional materials and statements about its Dentrax G5 software that falsely represented the product's ability to encrypt patient data and help dentists meet regulatory obligations related to HIPAA. In evaluating whether these representations were likely to mislead, the Commission considered the totality of the circumstances, including the fact that dental practices may not have the opportunity or expertise to evaluate how a software product works and ho-l.icstise

database engine vendor informed Henry Schein that the form of data protection used in Dentrix G5 was a proprietary algorithm that had not been tested publicly and was less secure and more vulnerable than widely-used industry-standard encryption algorithms, such as AES encryption. Nevertheless, as further alleged in the complaint, for a period of two years Henry Schein disseminated or caused to be disseminated promotional materials and statements about its Dentrix G5 software that emphasized the product's ability to encrypt patient data and help dentists meet regulatory obligations related to HIPAA. Although the Commission's actions in this matter partially rely on non-public information gathered in the underlying investigation, the Commission carefully considered the issues you have raised prior to accepting the complaint and proposed consent agreement and order for public comments.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary

proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

Second, your comment asks that the proposed consent agreement and order impose additional notice obligations. Specifically, you propose that the Commission require Henry Schein to issue a public apology and make statements on its website and to the press explaining its conduct. The issue of notice is an important one. For this reason, the proposed consent agreement and order includes several safeguards. For example, Part II of the proposed consent agreement and order requires Henry Schein to mail individual notices to consumers, including dental practices, that purchased Dentrax G5 prior to January 2014, informing them that Dentrax G5 uses a less complex encryption algorithm to protect patient data than AES, which is recommended as an industry standard by NIST. Providing individual notice in this fashion ensures that those customers most likely to have been deceived by Henry Schein's misrepresentations understand the scope of data protection offered by Dentrax G5 and its limitations in helping dentists satisfy their security obligations under HIPAA. Part II also requires that Henry Schein establish a toll-free telephone number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

Finally, according to your comment, you believe that the proposed consent agreement and order should also apply to Henry Schein's parent company, Henry Schein, Inc. The Commission appreciates your comment. Although the Commission's actions in this matter partially rely on non-public information gathered in the underlying investigation, the Commission carefully considered the issues you have raised, including the appropriate scope of corporate liability for the conduct alleged, prior to accepting the draft complaint and the proposed consent agreement and order for public comments.²

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. Thank you again for your comment.

¹ See also 6 C.F.R. § 1.98(c).

² See e.g., *United States v. Bestfoods*, 524 U.S. 51, 55 (1998) (“[A] corporate parent that actively participated in, and exercised control over, the operations of the facility itself may be held directly liable in its own right as an operator of the facility.”); *id.* at 68 (“Control of the subsidiary, if extensive enough, gives rise to indirect liability under piercing doctrine ...”) (citing Lynda Oswald, “Bifurcation of Owner and Operator Analysis Under CERCLA: Finding Order in the Chaos of Pervasive Control”, 72 Wash. U. L.Q. 223, 269 (1994)).

By direction of the Commission.

Donald S. Clark
Secretary



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FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

May 20, 2016

Darrell K. Pruitt, DDS
State of Texas

Re: In the Matter of Henry Schein Practice Solutions, File No. 142 3161, C-4575

Dear Dr. Pruitt:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment expresses general support for the Commission's action and you do not propose any revisions to the draft complaint or proposed consent agreement and order.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are

available from the Commission's website <http://www.ftc.gov> Thank you again for your comment.

By direction of the Commission.

Donald S. Clark
Secretary



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WASHINGTON, D.C. 20580

May 20, 2016

Justin Shafer
Onsite Dental Systems
State of Texas

Re: In the Matter of Henry Schein Practice Solutions, File No. 142 3161, C-4575

Dear Mr. Shafer:

Thank you for your comments on behalf of Onsite Dental Systems regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 419.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrax G5 software ("Dentrax G5") provides industry-standard encryption, and that Dentrax G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrax G5 offers industry-standard encryption; (2) the ability of Dentrax G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrax G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrax G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

Your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTCA, 15 U.S.C. § 57(a). The Commission's proposed complaint also alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(b) of the FTCA, 15 U.S.C. § 57(b).

violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹



Office of the Secretary

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

May 20, 2016

Smith
State of New York

Re: In the Matter of Henry Schein Practice Solutions, File No. 142 3161, C-4575

Dear Commenter Smith:

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to Rule 9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

The complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 software ("Dentrix G5") provides industry-standard encryption, and that Dentrix G5 helps dentists protect patient data as required by the Health Insurance Portability and Accountability Act of 1996. The proposed consent agreement and order prohibits Henry Schein from misrepresenting: (1) to what extent Dentrix G5 offers industry-standard encryption; (2) the ability of Dentrix G5 to help customers meet regulatory obligations related to privacy or security; and (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard ("AES"), which is recommended as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

First, your comment raises concerns that the monetary relief in the proposed consent agreement and order is insufficient. After consideration of your comment, the Commission has determined that the relief set forth in the proposed consent agreement and order is appropriate and sufficient to remedy the violations alleged in the complaint. As an initial matter, please note that the Commission's proposed complaint alleges that Henry Schein's advertising claims constituted unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The Commission is not authorized to collect fines or civil penalties based on such violations. However, as is the case here, the Commission often seeks equitable monetary relief based on consumer injury or ill-gotten gains attributed to the law violation. Accordingly, under the proposed consent agreement and order, Henry Schein is

required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l).¹ As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's future activities to determine whether any violations occur.

Second, your comment suggests that the order include additional notice obligations to make all patients aware of Henry Schein's practices. Part II of the proposed consent agreement and order requires Henry Schein to email individual notices to consumers, including dental practices, that purchased Dentrix G5 prior to January 2014 informing them that Dentrix G5 uses a less complex encryption algorithm to protect patient data than AES, which is recommended as an industry standard by NIST. Providing individual notice in this fashion ensures that those customers most likely to have been deceived by Henry Schein's misrepresentations understand the scope of data protection offered by Dentrix G5 and its limitations in helping dentists satisfy their security obligations under HIPAA. Part II also requires that Henry Schein establish a toll-free telephone number and an email address dedicated to responding to inquiries about the order. Part II further requires that Henry Schein submit reports on its notification program, summarizing its compliance. The Commission believes this notice program is appropriate under the facts of this case.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other elements. The final Decision. The

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WASHINGTON, D.C. 20580

Office of the Secretary

May 20, 2016

Sporborg
Commonwealth of Massachusetts

Re: In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3145,76

Dear Commenter Sporborg

Thank you for your comment regarding the Federal Trade Commission's ("Commission" or "FTC") consent agreement in the above-captioned proceeding. The Commission has placed your comment on the public record pursuant to Rule (b)(6)(ii) of the Commission's Rules of Practice (s)f

complaint in this matter alleges that Henry Schein Practice Solutions, Inc. ("Henry Schein") violated Section 5 of the FTC Act by misrepresenting to consumers that its Dentrix G5 ("Dentrix G5") provides industry standard encryption, and that Dentrix G5 helps protect patient data as required by the Health Insurance Portability and Accountability Act ("HIPAA"). The proposed consent agreement and order prohibits Henry Schein from making (1) to what extent Dentrix G5 offers industry standard encryption (2) the extent to which Dentrix G5 helps customers meet regulatory obligations related to privacy or security (3) the extent to which Dentrix G5 maintains the privacy, security, confidentiality, and integrity of Personal Information. The proposed consent agreement and order also requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption to protect patient data than Advanced Encryption Standard ("AES"), which is recognized as an industry standard by the National Institute of Standards and Technology ("NIST"). Further, the proposed consent agreement and order requires that Henry Schein pay to the Commission \$250,000. In addition, once the order becomes final, Henry Schein would be subject to civil penalties in the event of future violations.

the law violation. Accordingly, under the proposed consent agreement and order, Henry Schein is required to pay \$250,000 into a fund to be administered by the Commission. Based on evidence gathered during the investigation, the Commission believes that this amount will provide appropriate relief. In addition, the proposed consent agreement and order includes strong injunctive relief against Henry Schein by, among other things, prohibiting conduct of the sort at issue in this case. If Henry Schein violates the Commission's final order, it would be liable for civil penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l). As is the case with all Commission orders, Commission staff will closely monitor Henry Schein's compliance with the order.

light of these considerations, the Commission



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than AES which is recommended as an industry standard by NIST. Accordingly, if your office purchased Dentrix G5 prior to January 2014, He