



Office of the Secretary

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

March 2, 2011

Satyendra Pandey
Outside the United States

Re: In the Matter of Twitter, Inc., File No. 092 3093, Docket No. C-4316

Thank you for your comment on the Federal Trade Commission's 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.

Your comment expresses concern with Twitter's privacy and data security practices, particularly as they may have affected the nonpublic information associated with your Twitter account. Your comment suggests that companies should be required to maintain client and user information in strict confidentiality. In addition, your comment suggests that the consent order should impose penalties on Twitter, such as those recently imposed by a federal court order on the defendant in the Commission's lawsuit against Pricewert LLC, doing business as 3FN.net ("Pricewert").¹

In response, the Commission notes that it has adopted a flexible approach to data security, taking into account the nature of the business and the sensitivity of the information it handles in determining whether its security measures are reasonable. Here, the Commission's assessment of these factors, along with the security measures Twitter implemented, formed the basis for its belief that Twitter deceived its customers by failing to honor its promise to maintain reasonable security for the information it collected. The Commission recognizes, however, that there cannot be "perfect" security and that data breaches can occur even when a company takes reasonable precautions to prevent them.

The Commission also notes that it carefully considers a variety of factors in determining the relief appropriate to address the challenged conduct in a particular case. In its suit against Pricewert, the Commission determined, and the court agreed, that liquidation of Pricewert's assets and disgorgement of ill-gotten gains were warranted in light of Pricewert's illegal activities, which included distribution of child pornography and other malicious content. The Commission did not determine that such relief would be appropriate in the Twitter proceeding, however, and believes that the remedies contained in the consent order – including implementing a comprehensive information security program and obtaining independent assessments of its

¹ *FTC v. Pricewert LLC*, 2010 WL 2105614 (N.D. Cal. Apr. 8, 2010) (order for permanent injunction and monetary judgment), *available at* <http://www.ftc.gov/os/caselist/0923148/100408pricewertorder-app.pdf>.

effectiveness every other year for ten years – should address Twitter’s challenged conduct and ensure appropriate protections for consumers. This relief is consistent with relief the Commission has obtained in similar cases involving the security of consumer information. The Commission notes that, should Twitter violate the order, it would be subject to monetary penalties of up to \$16,000 per violation, pursuant to Section 5(l) of the FTC Act.

In light of these considerations, the Commission has determined that the public interest would best be served by issuing the Decision and Order 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>. 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.

Donald S. Clark
Secretary