

FILED

AUG 08 2012

RICHARD W. WIENING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 STUART DELERY
Acting Assistant Attorney General, Civil Division

3 MELINDA HAAG (CABN 132612)
United States Attorney for the Northern District of California

5 MAAME EWUSI-MENSAH FRIMPONG (CABN 222986)
Deputy Assistant Attorney General, Civil Division

7 MICHAEL S. BLUME (PA 78525)
Director, Consumer Protection Branch

8 ADRIENNE E. FOWLER*
9 Trial Attorney, Consumer Protection Branch, U.S. Department of Justice
10 450 5th St. NW, Room 6400
11 Washington, DC 20530
12 (202) 514-9471
(202) 514-8742 (fax)
Adrienne.E.Fowler@usdoj.gov

13 Attorneys for the United States

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

E-filing
ADP

17 UNITED STATES OF AMERICA,)

18 Plaintiff,)

19 v.)

20 GOOGLE INC.)

21 Defendant.)
22)
23)

Case No. **CV 12-04177**

HRL

**COMPLAINT FOR
CIVIL PENALTIES
AND OTHER RELIEF**

24
25 Plaintiff, the United States of America, acting upon the notification and authorization to
26 the Attorney General by the Federal Trade Commission ("FTC" or "Commission"), for its
27 Complaint alleges that:

28 * Member in good standing of the New York Bar, which does not issue bar numbers.

Fee exempt

99

1 8. On October 13, 2011, the Commission entered its decision and order (“Google
2 Consent Order”) approving a settlement with Google. The Google Consent Order contains the
3 following prohibitions:

4 I.

5 IT IS ORDERED that respondent, in or affecting commerce, shall not
6 misrepresent in any manner, expressly or by implication:

- 7 A. the extent to which respondent maintains and protects the privacy
8 and confidentiality of any covered information, including, but not
9 limited to, misrepresentations related to: (1) the purposes for which
10 it collects and uses covered information, and (2) the extent to
11 which consumers may exercise control over the collection, use, or
12 disclosure of covered information.
- 13 B. the extent to which respondent is a member of, adheres to,
14 complies with, is certified by, is endorsed by, or otherwise
15 participates in any privacy, security, or any other compliance
16 program sponsored by the government or any other entity,
17 including, but not limited to, the U.S.-EU Safe Harbor.

18 9. The Google Consent Order defines “covered information” as:
19 information Google collects from or about an individual, including, but
20 not limited to, an individual’s: (a) first and last name; (b) home or other
21 physical address, including street name and city or town; (c) email address
22 or other online contact information, such as a user identifier or screen
23 name; (d) persistent identifier, such as IP address; (e) telephone number,
24 including home telephone number and mobile telephone number; (f) list of
25 contacts; (g) physical location; or any other information from or about an
26 individual consumer that is combined with (a) through (g) above.

27 10. Covered information as defined under the Google Consent Order includes a
28 persistent identifier contained in a tracking cookie, a user’s IP address, a user’s account ID, a
29 user’s interests, or a user’s web-browsing activity.

30 11. The FTC served the Google Consent Order on Google on October 28, 2011, and it
31 remains in full force. A copy of the Google Consent Order is attached as Exhibit A.

32 **DEFENDANT’S BUSINESS PRACTICES**

33 12. This Complaint alleges (as detailed below) that Google represented to certain
34 users that Google would not place tracking cookies or serve targeted advertisements based on
35

1 those tracking cookies—but those users did in fact receive tracking cookies and targeted
2 advertisements.

3 13. Google is a global technology company best known for its online search engine,
4 which provides free search results to users. Google also provides free web products to
5 consumers, including its widely used web-based email service, Gmail.

6 14. In exchange for fees, Google provides advertising services to online advertisers
7 and publishers. Through its various advertising networks, Google allows advertisers to deliver
8 targeted advertisements to users. Through Google, advertisers serve *billions* of online
9 advertisements every single day. In 2011, Google received \$36.5 billion from advertising fees,
10 of which approximately \$1.7 billion came from online display ads. Indeed, in 2011, 96% of
11 Google's revenue came from online advertising, according to Google's filings with the Securities
12 and Exchange Commission.

13 15. Google is a member of the Network Advertising Initiative ("NAI"), a self-
14 regulatory organization for companies in the online advertising marketplace. As an NAI
15 member, Google must adhere to NAI's Self-Regulatory Code of Conduct ("NAI Code").
16 Section III(2)(a) of the NAI Code provides:

17 Each member directly engaging in online behavioral advertising, multi-
18 site advertising, and/or ad delivery and reporting shall clearly and
19 conspicuously post notice on its website that describes its data collection,
20 transfer, and use practices. Such notice shall include[.]

- 21 i. The online behavioral advertising, multi-site advertising,
22 and/or ad delivery and reporting activities undertaken by
23 the member company;
- 24 ii. What types of data are collected by the member
25 company; [and]
- 26 iii. How such data will be used by the member company,
27 including transfer, if any, of data to a third party[.]

28 16. Google has stated, including on its Privacy Policy for Ads and Advertising
Services webpage, that it is a member of NAI. Google has also authorized other entities,

1 including NAI, to represent that it is a participating NAI member that complies with NAI's
2 Code.

3 Targeted Advertising

4 17. Targeted advertising uses information collected from a user's web-browsing
5 activity, such as past or present search queries or websites a user visits or has visited, to serve
6 online advertisements tailored to the individual user.

7 18. Targeted advertising often utilizes HTTP cookies, which are small text files that
8 can be used to collect and store information about a user's online activities, such as the content
9 and advertisements a user viewed or the webpages he or she visited ("tracking cookies"). These
10 cookies contain a unique persistent identifier that allows an advertising network to recognize the
11 user's computer and correlate the user's web-browsing activity with the computer.

12 19. Tracking cookies are placed, or "set," by either first parties or third parties. First-
13 party cookies are placed by the website the user is visiting. For example, if a user visits
14 <www.google.com>, any cookie that Google sets from that same domain <google.com> while
15 the user is visiting that website is a first-party cookie. First-party cookies are often used to help
16 websites remember certain information about a user, such as items in a shopping cart, a log-in
17 name, or the user's preferences.

18 20. Third-party cookies are placed by a domain other than the one the user is visiting.
19 For example, if a user visits <www.google.com>, a cookie placed from any domain other than
20 <google.com> is a third-party cookie. Third-party cookies are usually set by an advertising
21 network or a company that serves content on the website a user is visiting, such as a banner ad.

22 21. An advertising network may set tracking cookies in either the third-party or first-
23 party context. For instance, if a user clicks on an advertisement, the advertising network may set
24 a first-party tracking cookie on the user's browser. An advertising network can place a third-
25 party tracking cookie when a user merely visits a website where the network displays an ad.
26
27
28

1 22. By placing a tracking cookie on a user's browser, an advertising network may
2 collect information about the user's web-browsing activities and use that information to serve
3 online advertisements that are targeted to the user's predicted interests.

4 **Defendant's DoubleClick Advertising Cookie**

5 23. Google uses the "DoubleClick Advertising Cookie" to collect information and
6 serve targeted advertisements to users who visit Google websites, Google partner websites, and
7 websites that use Google's advertising services.

8 24. Notably, Google sets the DoubleClick Advertising Cookie on the user's computer
9 from the <doubleclick.net> domain. Therefore, when a user visits a website on a domain other
10 than <doubleclick.net>, a cookie set from <doubleclick.net> is a third-party cookie. But when a
11 user clicks on a DoubleClick advertisement, a cookie set from <doubleclick.net> is a first-party
12 cookie.

13 25. Through each DoubleClick Advertising Cookie, Google assigns a unique
14 persistent identifier to a user, which enables Google to collect and use information about that
15 user, including the user's IP address and web-browsing activity. Through each cookie's unique
16 persistent identifier, Google can track that user's activity and Google's advertising network can
17 link the user's web-browsing activity to the computer over time.

18 26. Based on the information Google collects via the DoubleClick Advertising
19 Cookie, Google creates predicted interest categories for a user and considers what advertising is
20 most likely to appeal to that user. Once Google has linked interest categories with a particular
21 user's computer, Google uses the cookie's unique persistent identifier to serve targeted
22 advertisements tailored to the user's predicted interests during his or her online activity.

23 **Safari Browser Privacy Controls**

24 27. Web browsers provide users with different ways to delete, block, or limit cookies
25 set on their browser.

26 28. Through a web browser's privacy settings, users can choose to categorically block
27 or accept all cookies, or to block cookies from particular websites or domains. Certain browsers
28

1 allow users to block all third-party cookies.

2 29. Apple's Safari browser blocks third-party cookies by default. Apple advertises
3 this default setting as a benefit of choosing Safari. Specifically, Apple states: "Some companies
4 track the cookies generated by the websites you visit, so they can gather and sell information
5 about your web activity. Safari is the first browser that blocks these tracking cookies by default,
6 better protecting your privacy."

7 30. The Safari browser, however, allows third-party cookies in certain exceptional
8 circumstances. In particular, it permits third-party cookies if a user submits information via a
9 form embedded within the webpage, known as a "form submission." For example, when a user
10 submits information through a website (such as typing a mailing address to make an online
11 purchase or filling out an online customer survey), that website may seek to set third-party
12 cookies on the user's browser. In such cases, the Safari browser accepts third-party cookies.

13 31. Significantly, the Safari browser's default setting blocks third-party cookies *only*
14 from a *new* domain. Once the Safari browser accepts (and retains) a cookie, Safari will allow
15 *any* additional cookies from that same domain. In other words, once Safari allows a cookie from
16 the <doubleclick.net> domain, it will allow any additional cookies from <doubleclick.net>.

17 **Defendant's Advertising Privacy Controls**

18 32. Since entering the online advertising market, Google has acknowledged that some
19 users would be wary of targeted advertising. Google therefore permits users who do not want
20 their information collected or used for the delivery of targeted advertising to "opt out."

21 33. A user may opt out of targeted advertising either by clicking a button on Google's
22 Ads Preferences webpage ("opt-out button") or by downloading Google's "advertising cookie
23 opt-out plugin." Both of these options place an "opt-out cookie" on the user's browser. (Google
24 uses the term "opt-out cookie" interchangeably with the term "the DoubleClick opt-out cookie.")

25 34. The opt-out button saves the opt-out cookie temporarily on a user's browser until
26 the user clears or deletes the browser's cookies. The plugin saves the opt-out cookie
27
28

1 permanently on a user's browser, so that if a user deletes or clears the browser's cookies, the opt-
2 out cookie will remain.

3 35. Google gives users of three browsers (Internet Explorer, Firefox, and Google
4 Chrome) the ability to download the plugin. For technical reasons, Google does not offer the
5 plugin to users of the Safari browser.

6 **DEFENDANT'S STATEMENTS**

7 36. However, Google told Safari users that they did not need to take any action to be
8 opted out of DoubleClick targeted advertisements.

9 37. Google assured Safari users that the Safari default setting "effectively
10 accomplishes the same thing as setting the opt-out cookie," as shown in the highlighted portions
11 of the Google webpage for the Advertising Cookie Opt-out Plugin (highlighting added for
12 emphasis):

13 **Google Advertising Cookie Opt-out Plugin**

14 [Home](#)

15 [FAQs](#)

16 [Browser instructions](#)

17 **Opting out permanently: Browser Instructions**

18 See instructions for: [Internet Explorer, Firefox & Google Chrome](#) | [Safari](#) | [Other browsers](#)

19 **Internet Explorer, Mozilla Firefox & Google Chrome**

20 You can download the plugin for Internet Explorer, for Firefox and for Google Chrome from the homepage of the [Google advertising opt-out plugin](#).

21 **Instructions for Safari**

22 While we don't yet have a Safari version of the Google advertising cookie opt-out plugin, Safari is set by default to block all third-party cookies. If you have not changed those settings, this option effectively accomplishes the same thing as setting the opt-out cookie. To confirm that Safari is set up to block third-party cookies, do the following:

- 23 1. From Safari, select "Safari" in the menu bar, and then select "Preferences"
- 24 2. In the Preferences Dialog Box, select the "Security" tab
- 25 3. Make sure the "Accept cookies:" setting is set to "Only from sites you navigate to". You can also set this option to "Never", but this will prevent many web sites that rely on cookies from working.

26 **Instructions for other browsers**

27 Unfortunately, the plugin is not available for other browsers. You can always opt out using the [Ads Preferences Manager](#), but without a special browser plugin, your opt-out setting will go away when you delete your browser's cookies (you would need to set it again manually).

28 If you're using another browser that's not mentioned above, you can look for a common feature, which accomplishes the same as setting the DoubleClick opt-out cookie: Find a setting in your browser's settings that allows you to only accept cookies from sites you visit, or only "first-party cookies". This option may also be described as "blocking third-party cookies."

©2010 Google - [Home](#) - [Privacy Policy](#)

1 38. Google made further assurances to all users (including Safari users), as follows:

2 A. On its Advertising and Privacy page, Google states: “After you opt out,
3 Google will not collect interest category information and you will not receive
4 interest-based ads.”

5 B. On its Privacy Policy for Google Ads and Advertising Services page, Google
6 stated:

7 If you select the DoubleClick opt-out cookie, ads delivered to your
8 browser by our ad-serving technology will not be served based on the
9 DoubleClick cookie. Your DoubleClick opt-out cookie will not be
10 uniquely identified As long as your browser retains the DoubleClick
11 opt-out cookie, Google won’t serve new DoubleClick cookies to your
12 browser.

13 39. Notably, Google’s statements in Paragraph 38 applied with equal force to first-
14 party and third-party cookies.

15 40. Thus, Google represented to Safari users that, if they did not change the default
16 setting, Google would not place DoubleClick Advertising Cookies on a user’s browser, collect
17 interest category information from or about the user, or serve targeted advertisements to the user.

18 **DEFENDANT’S CONDUCT**

19 41. Despite its representations to Safari users, Google overrode the Safari default
20 browser setting and placed the DoubleClick Advertising Cookie on Safari browsers.

21 42. Specifically, when a Safari user with the default browser setting visited a Google
22 website, Google partner website, or website that used Google’s advertising services, Google used
23 code that was invisible to the user to communicate with that user’s Safari browser. That
24 communication stated, unbeknownst to the user, that the user was generating a “form
25 submission.” In reality, Google was setting a cookie on the user’s browser (the “Initial Cookie”).

26 43. As a direct result of that “form submission,” the Safari browser accepted the
27 Initial Cookie.

28 44. The Initial Cookie enables Google to store, collect, and transmit, in encrypted
form, a user’s Google Account ID.

1 45. Google set the Initial Cookie from the <doubleclick.net> domain, the same
2 domain that Google uses to serve the DoubleClick Advertising Cookie.

3 46. After the Safari browser accepted the Initial Cookie, Google set additional third-
4 party cookies (including but not limited to the DoubleClick Advertising Cookie) onto the user's
5 browser.

6 47. Alternatively, Google set the DoubleClick Advertising Cookie as a first-party
7 cookie on Safari browsers with the default setting whenever those Safari users clicked on a
8 DoubleClick advertisement. In contrast, for users of other browsers (such as Internet Explorer,
9 Firefox, and Chrome) who had opted out of targeted advertising, Google did not set the
10 DoubleClick Advertising Cookie as a first-party cookie when those users clicked on a
11 DoubleClick advertisement.

12 48. Setting these cookies onto users' Safari browsers enabled Google to collect
13 information about, and serve targeted advertisements to, these users.

14 **FIRST CAUSE OF ACTION**

15 **(Collecting Covered Information)**

16 49. Through the statements on its website referred to in Paragraphs 37-40, including
17 but not necessarily limited to those materials attached as Exhibit B, Defendant represented to
18 Safari users, directly or by implication, that it would not place DoubleClick Advertising Cookies
19 on the browsers of Safari users who had not changed the default browser setting, or collect or use
20 information from or about users' web-browsing activity, including interest category information,
21 from Safari users who had not changed the default browser setting.

22 50. In truth and in fact, Defendant placed DoubleClick Advertising Cookies on the
23 browsers of Safari users with the default setting and to whom Google made the representations
24 referred to in Paragraph 49, and Defendant collected and used information from or about users'
25 web-browsing activity, including interest category information, from Safari users with the
26 default setting and to whom Google made the representations referred to in Paragraph 49.

1 51. Based on the facts described in Paragraphs 49-50, Defendant misrepresented the
2 extent to which users may exercise control over the collection or use of covered information,
3 thereby violating Part I(A) of the Google Consent Order.

4 **SECOND CAUSE OF ACTION**

5 **(Serving Targeted Advertisements)**

6 52. Through the statements on its website referred to in Paragraphs 37-40, including
7 but not necessarily limited to those materials attached as Exhibit B, Defendant represented to
8 Safari users, directly or by implication, that it would not serve targeted advertisements based on
9 information collected via the DoubleClick Advertising Cookie to Safari users who had not
10 changed their default browser setting.

11 53. In truth and in fact, Defendant did serve targeted advertisements based on
12 information collected via the DoubleClick Advertising Cookie to Safari users with the default
13 setting and to whom Google made the representations referred to in Paragraph 52.

14 54. Based on the facts described in Paragraphs 52-53, Defendant misrepresented the
15 extent to which users may exercise control over the collection or use of covered information,
16 thereby violating Part I(A) of the Google Consent Order.

17 **THIRD CAUSE OF ACTION**

18 **(Misrepresenting NAI Code Compliance)**

19 55. Through the statements on its website referred to in Paragraph 16, including but
20 not necessarily limited to those materials attached as Exhibit B, Defendant represented, directly
21 or by implication, that it adheres to or complies with the NAI Code, which is a privacy, security,
22 or compliance program that requires Defendant to disclose its data collection and use practices.

23 56. In truth and in fact, Defendant did not disclose the data collection and use
24 practices described in Paragraphs 41-48, thereby violating Section III(2)(a) of the NAI Code
25 referred to in Paragraph 15.

26 57. Based on the facts described in Paragraphs 55-56, Defendant misrepresented the
27
28

1 extent to which it adheres to or complies with a privacy, security, or compliance program,
2 thereby violating Part I(B) of the Google Consent Order.

3 **CIVIL PENALTIES**

4 58. Each misrepresentation to Safari users by Google that it would not place the
5 DoubleClick Advertising Cookie or collect or use interest category information, in violation of
6 the Google Consent Order, as described above, constitutes a separate violation for which
7 Plaintiff seeks monetary civil penalties.

8 59. Each misrepresentation to Safari users by Google that it would not serve targeted
9 ads based on information collected via the DoubleClick Advertising Cookie, in violation of the
10 Google Consent Order, as described above, constitutes a separate violation for which Plaintiff
11 seeks monetary civil penalties.

12 60. Each misrepresentation by Google that it adhered to or complied with the NAI
13 Code, in violation of the Google Consent Order, as described above, constitutes a separate
14 violation for which Plaintiff seeks monetary civil penalties.

15 61. Section 5(*l*) of the FTC Act, 15 U.S.C. § 45(*l*), as modified by Federal Civil
16 Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(c) of the FTC's
17 Rules of Practice, 16 C.F.R. § 1.98(c), authorizes the Court to award monetary civil penalties of
18 not more than \$16,000 for each such violation of the Google Consent Order.

19 62. Under Sections 5(*l*) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(*l*) and 53(b), this
20 Court is authorized to permanently enjoin Defendant from violating the Google Consent Order as
21 well as to grant ancillary relief.

22 **PRAYER FOR RELIEF**

23 63. WHEREFORE, Plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(*l*) and
24 56(a), and pursuant to the Court's own equitable powers to:

- 25 (1) Enter judgment against Defendant and in favor of the Plaintiff for each
26 violation of the Google Consent Order alleged in this Complaint;
27
28

1 (2) Award Plaintiff monetary civil penalties from Defendant for each violation of
2 the Google Consent Order alleged in this Complaint;

3 (3) Enjoin Defendant from violating the Google Consent Order issued in Docket
4 No. C-4336;

5 (4) Award Plaintiff its costs and attorneys' fees incurred in connection with this
6 action; and

7 (5) Award Plaintiff such additional relief as the Court may deem just and proper.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **Date:** Aug. 8, 2012

2 **Of Counsel:**

3 JAMES A. KOHM
4 Associate Director for Enforcement

5 LAURA KIM
6 Assistant Director for Enforcement

7 MEGAN E. GRAY
8 Attorney
9 MEGAN A. BARTLEY
10 Attorney
11 Federal Trade Commission
12 Bureau of Consumer Protection
13 Division of Enforcement
14 600 Pennsylvania Avenue, N.W.
15 Mail Drop M-8102B
16 Washington, DC 20580

17 (202) 326-3408, mgray@ftc.gov
18 (202) 326-3424, mbartley@ftc.gov
19 (202) 326-2558 (fax)

Respectfully submitted:

STUART F. DELERY
Acting Assistant Attorney General,
Civil Division

MELINDA HAAG (CABN 132612)
United States Attorney
for the Northern District of California

MAAME EWUSI-MENSAH FRIMPONG
(CABN 222986)
Deputy Assistant Attorney General, Civil
Division

MICHAEL S. BLUME (PA 78525)
Director, Consumer Protection Branch



ADRIENNE E. FOWLER (member in
good standing of the New York bar)
Trial Attorney
Consumer Protection Branch
Department of Justice, Civil Division
450 5th St. NW, Suite 6400
Washington, DC 20530
(202) 514-9471
(202) 514-8742 (fax)
Adrienne.E.Fowler@usdoj.gov

Exhibit A

102 3136

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Jon Leibowitz, Chairman**
 J. Thomas Rosch
 Edith Ramirez
 Julie Brill

In the Matter of

GOOGLE INC.,
a corporation.

)
)
) **DOCKET NO. C-4336**
)
)
)

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the Respondent named in the caption hereof, and the Respondent having been furnished thereafter with a copy of a draft of Complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued, would charge the Respondent with violation of the Federal Trade Commission Act; and

The Respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the Respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by the Respondent that the law has been violated as alleged in such complaint, or that any of the facts as alleged in such complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the Respondent has violated the Federal Trade Commission Act, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, 16 C.F.R. § 2.34, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Google is a Delaware corporation with its principal office or place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043.
2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, “respondent” shall mean Google, its successors and assigns, officers, agents, representatives, and employees. For the purpose of Parts I, II, and III of this order, “respondent” shall also mean Google acting directly or through any corporation, subsidiary, division, website, or other device.
2. “Clear(ly) and prominent(ly)” shall mean:
 - A. In textual communications (*e.g.*, printed publications or words displayed on the screen of a computer or mobile device), the required disclosures are of a type, size, and location sufficiently noticeable for an ordinary consumer to read and comprehend them, in print that contrasts highly with the background on which they appear;
 - B. In communications disseminated orally or through audible means (*e.g.*, radio or streaming audio), the required disclosures are delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend them;
 - C. In communications disseminated through video means (*e.g.*, television or streaming video), the required disclosures are in writing in a form consistent with subpart (A) of this definition and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and in the same language as the predominant language that is used in the communication; and
 - D. In all instances, the required disclosures: (1) are presented in an understandable language and syntax; and (2) include nothing contrary to, inconsistent with, or in mitigation of any other statements or disclosures provided by respondent.
3. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
4. “Google user” shall mean an identified individual from whom respondent has collected information for the purpose of providing access to respondent’s products and services.

5. "Covered information" shall mean information respondent collects from or about an individual, including, but not limited to, an individual's: (a) first and last name; (b) home or other physical address, including street name and city or town; (c) email address or other online contact information, such as a user identifier or screen name; (d) persistent identifier, such as IP address; (e) telephone number, including home telephone number and mobile telephone number; (f) list of contacts; (g) physical location; or any other information from or about an individual consumer that is combined with (a) through (g) above.
6. "Third party" shall mean any individual or entity other than: (1) respondent; (2) a service provider of respondent that: (i) uses or receives covered information collected by or on behalf of respondent for and at the direction of the respondent and no other individual or entity, (ii) does not disclose the data, or any individually identifiable information derived from such data, to any individual or entity other than respondent, and (iii) does not use the data for any other purpose; or (3) any entity that uses covered information only as reasonably necessary: (i) to comply with applicable law, regulation, or legal process, (ii) to enforce respondent's terms of use, or (iii) to detect, prevent, or mitigate fraud or security vulnerabilities.

I.

IT IS ORDERED that respondent, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication:

- A. the extent to which respondent maintains and protects the privacy and confidentiality of any covered information, including, but not limited to, misrepresentations related to: (1) the purposes for which it collects and uses covered information, and (2) the extent to which consumers may exercise control over the collection, use, or disclosure of covered information.
- B. the extent to which respondent is a member of, adheres to, complies with, is certified by, is endorsed by, or otherwise participates in any privacy, security, or any other compliance program sponsored by the government or any other entity, including, but not limited to, the U.S.-EU Safe Harbor Framework.

II.

IT IS FURTHER ORDERED that respondent, prior to any new or additional sharing by respondent of the Google user's identified information with any third party, that: 1) is a change from stated sharing practices in effect at the time respondent collected such information, and 2) results from any change, addition, or enhancement to a product or service by respondent, in or affecting commerce, shall:

- A. Separate and apart from any final “end user license agreement,” “privacy policy,” “terms of use” page, or similar document, clearly and prominently disclose: (1) that the Google user’s information will be disclosed to one or more third parties, (2) the identity or specific categories of such third parties, and (3) the purpose(s) for respondent’s sharing; and
- B. Obtain express affirmative consent from the Google user to such sharing.

III.

IT IS FURTHER ORDERED that respondent, in or affecting commerce, shall, no later than the date of service of this order, establish and implement, and thereafter maintain, a comprehensive privacy program that is reasonably designed to: (1) address privacy risks related to the development and management of new and existing products and services for consumers, and (2) protect the privacy and confidentiality of covered information. Such program, the content and implementation of which must be documented in writing, shall contain privacy controls and procedures appropriate to respondent’s size and complexity, the nature and scope of respondent’s activities, and the sensitivity of the covered information, including:

- A. the designation of an employee or employees to coordinate and be responsible for the privacy program.
- B. the identification of reasonably foreseeable, material risks, both internal and external, that could result in the respondent’s unauthorized collection, use, or disclosure of covered information, and an assessment of the sufficiency of any safeguards in place to control these risks. At a minimum, this privacy risk assessment should include consideration of risks in each area of relevant operation, including, but not limited to: (1) employee training and management, including training on the requirements of this order, and (2) product design, development, and research.
- C. the design and implementation of reasonable privacy controls and procedures to address the risks identified through the privacy risk assessment, and regular testing or monitoring of the effectiveness of those privacy controls and procedures.
- D. the development and use of reasonable steps to select and retain service providers capable of appropriately protecting the privacy of covered information they receive from respondent, and requiring service providers by contract to implement and maintain appropriate privacy protections.
- E. the evaluation and adjustment of respondent’s privacy program in light of the results of the testing and monitoring required by subpart C, any material changes to respondent’s operations or business arrangements, or any

other circumstances that respondent knows or has reason to know may have a material impact on the effectiveness of its privacy program.

IV.

IT IS FURTHER ORDERED that, in connection with its compliance with Part III of this order, respondent shall obtain initial and biennial assessments and reports (“Assessments”) from a qualified, objective, independent third-party professional, who uses procedures and standards generally accepted in the profession. A person qualified to prepare such Assessments shall have a minimum of three (3) years of experience in the field of privacy and data protection. All persons conducting such Assessments and preparing such reports shall be approved by the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, in his or her sole discretion. The reporting period for the Assessments shall cover: (1) the first one hundred and eighty (180) days after service of the order for the initial Assessment, and (2) each two (2) year period thereafter for twenty (20) years after service of the order for the biennial Assessments. Each Assessment shall:

- A. set forth the specific privacy controls that respondent has implemented and maintained during the reporting period;
- B. explain how such privacy controls are appropriate to respondent’s size and complexity, the nature and scope of respondent’s activities, and the sensitivity of the covered information;
- C. explain how the privacy controls that have been implemented meet or exceed the protections required by Part III of this order; and
- D. certify that the privacy controls are operating with sufficient effectiveness to provide reasonable assurance to protect the privacy of covered information and that the controls have so operated throughout the reporting period.

Each Assessment shall be prepared and completed within sixty (60) days after the end of the reporting period to which the Assessment applies. Respondent shall provide the initial Assessment to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, within ten (10) days after the Assessment has been prepared. All subsequent biennial Assessments shall be retained by respondent until the order is terminated and provided to the Associate Director of Enforcement within ten (10) days of request.

V.

IT IS FURTHER ORDERED that respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying, unless respondent asserts a valid legal privilege, a print or electronic copy of:

- A. for a period of three (3) years from the date of preparation or dissemination, whichever is later, all widely disseminated statements that describe the extent to which respondent maintains and protects the privacy and confidentiality of any covered information, with all materials relied upon in making or disseminating such statements;
- B. for a period of six (6) months from the date received, all consumer complaints directed at respondent, or forwarded to respondent by a third party, that allege unauthorized collection, use, or disclosure of covered information and any responses to such complaints;
- C. for a period of five (5) years from the date received, any documents, whether prepared by or on behalf of respondent, that contradict, qualify, or call into question respondent's compliance with this order; and
- D. for a period of three (3) years after the date of preparation of each Assessment required under Part III of this order, all materials relied upon to prepare the Assessment, whether prepared by or on behalf of respondent, including but not limited to all plans, reports, studies, reviews, audits, audit trails, policies, training materials, and assessments, for the compliance period covered by such Assessment.

VI.

IT IS FURTHER ORDERED that respondent shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having supervisory responsibilities relating to the subject matter of this order. Respondent shall deliver this order to such current personnel within thirty (30) days after service of this order, and to such future personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

IT IS FURTHER ORDERED that respondent shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in either corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director,

Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission,
Washington, D.C. 20580.

VIII.

IT IS FURTHER ORDERED that respondent shall, within ninety (90) days after the date of service of this order file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form in which respondent has complied with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondent shall submit additional true and accurate written reports.

IX.

This order will terminate on October 13, 2031, or twenty (20) years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. any Part in this order that terminates in fewer than twenty (20) years;
- B. this order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order as to such respondent will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: October 13, 2011

Exhibit B

Google **Advertising Cookie Opt-out Plugin**

[Home](#)

[FAQs](#)

[Browser instructions](#)

Opting out permanently: Browser Instructions

See instructions for: [Internet Explorer, Firefox & Google Chrome](#) | [Safari](#) | [Other browsers](#)

Internet Explorer, Mozilla Firefox & Google Chrome

You can download the plugin for Internet Explorer, for Firefox and for Google Chrome from the homepage of the [Google advertising opt-out plugin](#).

Instructions for Safari

While we don't yet have a Safari version of the Google advertising cookie opt-out plugin, Safari is set by default to block all third-party cookies. If you have not changed those settings, this option effectively accomplishes the same thing as setting the opt-out cookie. To confirm that Safari is set up to block third-party cookies, do the following:

1. From Safari, select "Safari" in the menu bar, and then select "Preferences"
2. In the Preferences Dialog Box, select the "Security" tab
3. Make sure the "Accept cookies:" setting is set to "Only from sites you navigate to".
You can also set this option to "Never", but this will prevent many web sites that rely on cookies from working.

Instructions for other browsers

Unfortunately, the plugin is not available for other browsers. You can always opt out using the [Ads Preferences Manager](#), but without a special browser plugin, your opt-out setting will go away when you delete your browser's cookies (you would need to set it again manually).

If you're using another browser that's not mentioned above, you can look for a common feature, which accomplishes the same as setting the DoubleClick opt-out cookie: Find a setting in your browser's settings that allows you to only accept cookies from sites you visit, or only "first-party cookies". This option may also be described as "blocking third-party cookies."

©2010 Google - [Home](#) - [Privacy Policy](#)

EXCERPT FROM GOOGLE'S ADVERTISING AND PRIVACY WEBPAGE

categories that are relevant to you. Using the Ads Preferences Manager for browsers and Ads Preferences Manager App for applications, you can remove any interest categories that don't apply and Google will no longer use them for showing you interest-based ads. You can also change which demographic categories are associated with your browser or anonymous ID. When you edit your ads preferences, your new settings may not take immediate effect, since it takes time for the change to be processed in our systems.

How do I opt out of interest-based advertising?

If you prefer not to receive interest-based advertising in web browsers, you can always click on the "Opt out" button on the Ads Preferences Manager. When you are accessing the web through a web browser, Google also offers a number of options to permanently save your opt-out settings in your browser. After you opt out, Google will not collect interest category information and you will not receive interest-based ads. You will still see the same number of ads as before, and Google may still show relevant ads based on the content of a web page, or other non-personal information. For example, if you visit a gardening site, Google can determine the content of the site and may automatically show ads related to gardening to all visitors without using a cookie. Additionally, whenever we serve an ad on Google search or on the sites of our AdSense for search partners, the ads which are displayed may still be based on the search terms you enter.

If you prefer not to receive interest-based advertising in applications and other clients that use an anonymous ID, you can always opt out using the appropriate preferences manager.

[Read more about opting-out of interest-based advertising in applications and other clients.](#)

What is the Ads Preferences Manager?

The Ads Preferences Manager is a Google site where you can manage settings associated with the ads you see. Our goal is to provide you with transparency and choice about the ads we show you.

- For Google search and Gmail, we explain why you got specific ads, and we also let you block ads from websites you aren't interested in.
- For websites that have partnered with Google to show AdWords ads, we show you a list of interests we associate with you that can affect the ads you see on those websites. We also let you add or delete interests from that list.

How does Google use cookies to serve ads?

A cookie is a snippet of text that is sent from a website's servers and stored on a web browser. Like most websites and search engines, Google uses cookies in order to provide a better user

EXCERPT FROM GOOGLE'S ADS AND ADVERTISING PRIVACY WEBPAGE

Read more information about interest-based advertising and the Ads Preferences Manager.

- **How to opt out of the DoubleClick cookie**

You may choose to opt out of the DoubleClick cookie at any time.

If you select the DoubleClick opt-out cookie, ads delivered to your browser by our ad-serving technology will not be served based on the DoubleClick cookie. Your DoubleClick opt-out cookie will not be uniquely identified. Other options on AdSense sites, partner sites and Google services that use the DoubleClick cookie may no longer be available; for example, we may no longer be able to prevent your browser from being served with the same ad over and over.

As long as your browser retains the DoubleClick opt-out cookie, Google won't serve new DoubleClick cookies to your browser.

Using a tool created by the Network Advertising Initiative, of which Google is a member, you can opt out of several third-party ad servers' and networks' cookies simultaneously.

- **Preserving your opt-out cookie**

When you get a new computer, install a new browser, erase or otherwise alter your browser's cookie file (including upgrading certain browsers) you may also clear the cookies in your browser, including the DoubleClick opt-out cookie. Google offers a number of options to preserve your opt-out cookie.

Conversion Tracking Cookie

Google also uses a cookie to measure advertising performance for advertisers who have opted-in to conversion tracking on Google and its AdSense partners websites. The conversion tracking cookie is set when a user clicks on an ad delivered by Google where the advertiser has opted-in to tracking. These cookies expire within 30 days and are not personally-identifiable. If this cookie has not yet expired when the user visits certain pages of the advertiser's website, Google and the advertiser will be able to tell that the user clicked the ad and proceeded to that page. Each advertiser gets a different cookie, so no cookie can be tracked across advertiser websites.

- **How we use the conversion cookie information**

We use the information collected by the conversion cookie to provide aggregate conversion stats to advertisers who have opted-in to conversion tracking. Advertisers are able to see the