



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

Office of the Secretary

March 13, 2013

Mr. Mark Sokolow  
Law Office of Mark Sokolow  
State of Texas

*Re: In the Matter of Epic Marketplace, Inc., and Epic Media Group, LLC  
File No. 112 3182, Docket No. C-4389*

Dear Mr. Sokolow:

Thank you for your comment regarding the Federal Trade Commission's proposed 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 suggests that the Commission impose a fine on Epic Marketplace, Inc. and Epic Media Group, LLC (collectively, "Epic"). The complaint in this matter alleges violations of Section 5 of the FTC Act, under which the Commission does not have the authority to seek civil penalties. However, the Commission is committed to safeguarding consumer privacy and believes the proposed order provides strong protection for consumers. In particular, the proposed order bans Epic from history sniffing in the future and requires the company to delete all data acquired through history sniffing. It also prohibits Epic from misrepresenting the extent to which it maintains the privacy and confidentiality of data about particular consumers, and the extent to which software code on a webpage determines whether a user has previously visited a webpage. Once the order becomes final, Epic will risk civil penalties of up to \$16,000 per violation of any term of the order, or up to \$16,000 per day in the case of continuing violations (as provided by Section 5(l) of the FTC Act, 45 U.S.C. § 45(l), as adjusted by 16 CFR 1.98(c)).

In addition, your comment urges the Commission to "require Epic Marketplace to place a notice on its website as to the actions that it has previously taken to look at the history-sniffing data for behavioral targeting purposes." The Commission looks at a number of factors in determining appropriate relief that will deter future violations. In this case, we believe a ban on history sniffing and a requirement that Epic destroy all data that it collected using history-sniffing is an adequate remedy.

Having considered all the facts of this case and all of the comments submitted in response to the proposed order, 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. The Commission thanks you again for your comment.

By direction of the Commission, Commissioner Wright not participating.

Donald S. Clark  
Secretary