



FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

THE CHAIRMAN

May 11, 2001

The Honorable Edward J. Markey
Ranking Member
Subcommittee on Telecommunications and the Internet
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Representative Markey:

Thank you for your March 28 letter requesting that the Federal Trade Commission conduct an inquiry into TiVo, Inc. ("TiVo")'s collection and use of customer information. Your letter refers to allegations concerning TiVo that are set forth in a recent report issued by the Privacy Foundation and the University of Denver Privacy Center. Based on its investigation, the report concluded that TiVo was collecting information on its customers' television viewing habits, and that such information appeared to be personally identifiable.

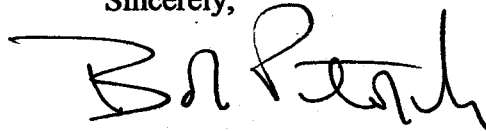
We agree that the collection of customers' television viewing information in a manner that is personally identifiable could raise serious privacy concerns, particularly if the practice is deceptively represented. Nonetheless, based on Commission staff's discussions with TiVo representatives, review of the Privacy Foundation report, and review of TiVo's user manuals, privacy policies, and a white paper describing TiVo's information practices, we do not believe there is a basis for FTC action at this time. It appears that TiVo did in fact collect personally identifiable TV viewing information, but only from customers from whom it first obtained consent; for the vast majority of customers, the TV viewing information was transmitted from the TiVo Receiver, and collected and stored by TiVo, in an anonymous manner.

Let me elaborate. TiVo collects information from its customers in a daily telephone call from the TiVo Receiver to TiVo's Broadcast Center. Two categories of information are transmitted during this call: anonymous TV viewing information (unless the customer has opted in to the collection of personally identifiable viewing information) and diagnostic data concerning the operation of the receiver, including the receiver's serial number. Although both types of data are transmitted during the same phone call, they are kept separate during the transmission and stored in separate locations. The date and time of the transmission are not logged with the data, and therefore cannot be used to correlate the TV viewing information with the diagnostic data or any other personal data, such as account information, that TiVo collects from its customers. As a result, TiVo cannot subsequently link a customer's viewing information with personally identifiable information unless the customer has consented in the first instance.

A copy of TiVo's white paper, provided by TiVo's Vice President, General Counsel and Chief Privacy Officer Matthew Zinn, is attached for your information.

Thank you for the opportunity to respond to your concerns. I look forward to working with you on the important issue of consumers' information privacy.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Pitofsky", written in a cursive style.

Robert Pitofsky

Enclosure

cc: **The Honorable W. J. "Billy" Tauzin**
Chairman
Committee on Energy and Commerce

The Honorable Cliff Stens, Chairman
Subcommittee on Commerce, Trade, and Consumer Protection

The Honorable Fred Upton, Chairman
Subcommittee on Telecommunications and the Internet