

Complaint

IN THE MATTER OF

GATEWAY LEARNING CORP.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-4120; File No. 0423047

Complaint, September 10, 2004--Decision, September 10, 2004

This consent order, among other things, prohibits Respondent Gateway Learning Corporation -- a marketer and seller of products designed for children who are learning math and reading under the “Hooked on Phonics” brand name and trademark -- from misrepresenting, in connection with the collection of personal information from or about an individual, (1) that it will not sell, rent, or loan to third parties such personal information; (2) that it will not provide to any third party personal information about children under the age of thirteen; (3) the manner by which it will notify consumers of changes to its privacy policy; or (4) the manner in which it will collect, use, or disclose personal information. The order also prohibits the respondent from disclosing to any third party any personal information collected on its Web site prior to the date it posted its revised privacy policy permitting third-party sharing (June 20, 2003) without the express affirmative (“opt-in”) consent of the consumers to whom such personal information relates. In addition, the order prohibits the respondent -- in connection with the posting in the future of any privacy policy that materially changes the previous version of the policy -- from applying such changes to information collected from or about consumers before the date of the posting without the express affirmative (“opt-in”) consent of those consumers. The order also requires the respondent to disgorge to the United States Treasury its profits from renting customer data.

Participants

For the Commission: *Laura Mazzarella, Loretta H. Garrison, Jessica Rich, Joel Winston and [Bureau of Economics].*

For the Respondent: *D. Reed Freeman, Jr., Collier Shannon Scott, PLLC.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Gateway Learning Corporation, a corporation (“Respondent”) has

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violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Gateway Learning Corporation is a Delaware corporation with its principal office or place of business at 2900 South Harbor Boulevard, Suite 202, Santa Ana, CA 92704.
2. The acts and practices of Respondent as alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.
3. Respondent markets and sells products designed for children who are learning math and reading under the “Hooked on Phonics” brand name and trademark. Since at least 2000, Respondent has marketed its products to parents and teachers through the Internet at its Web site, www.hop.com (the “Gateway Learning Web site”).
4. Respondent collects personal information from parents who visit the Gateway Learning Web site and purchase Respondent’s products online. This personal information includes the parent’s first and last name, billing address, shipping address, phone number, email address, purchase history, and his or her child’s age and gender.
5. Since at least 2000, Respondent has disseminated or has caused to be disseminated various privacy policies on the Gateway Learning Web site, including but not necessarily limited to the attached Exhibit A, containing the following statements regarding the privacy and confidentiality of personal information collected through Respondent’s Web site:

Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our visitors, and we treat

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any information you share with discretion, care and respect. This notice describes our privacy policy for the Hooked on Phonics Web site (“Site”).

Do we share your personally identifiable information with third parties?

We do not sell, rent or loan any personally identifiable information regarding our consumers with any third party unless we receive a customer’s explicit consent. We do share information with third parties that help us run our operations or provide services to customers (e.g., credit card processing and shipping companies), but only to the extent necessary to provide these services.

* * *

What about children’s privacy?

The Site does not sell products for purchase by children; we sell children’s products for purchase by adults. Children under 13 years of age may not submit personal information without the consent of their parents. We do not provide any personally identifiable information about children under 13 years of age to any third party for any purpose whatsoever.

* * *

Will this policy change?

If at some future time there is a material change to our information usage practices that affect your personally identifiable information, we will notify you of the relevant changes on this Site or by e-mail. You will then be able to opt-out of this information usage by sending an e-mail to: webmaster@hop.com. You should also check this privacy policy for changes.

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Exhibit A, Gateway Learning Web Site Privacy Policy,
December 6, 2001 (emphasis in original).

6. In April 2003, Respondent began renting personal information provided by consumers on the Gateway Learning Web site, including first and last name, address, phone number, and purchase history, without seeking or receiving any form of consent from such consumers. As part of the rental, Respondent also provided the age range (0-5 years old, 2-5 years old, and 6-10 years old) and gender of consumers' children for use by marketers in targeting parents. This personal information was used by third parties to send direct mail and make telemarketing calls to Gateway's online customers.
7. On June 20, 2003, Respondent posted on its Web site a revised privacy policy, attached hereto as Exhibit B. The June 20, 2003, privacy policy contained the same statements regarding children's privacy and policy changes as the previous policy, and the following revised statement regarding the sharing of personal information collected through Respondent's Web site:

Our Promise of Privacy

* * *

**Do we share your personally identifiable
information with third parties?**

From time to time, we may provide your name, address and phone number (not your e-mail address) to reputable companies whose products or services you may find of interest. If you do not want us to share this information with these companies, please write to us at: Gateway Learning Corporation, 2900 South Harbor Blvd., Suite 202, Santa Ana, CA 92704,

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call 1-800-544-7323 or e-mail us at webmaster@hop.com with the word do-not-share in the subject line.

Exhibit B, Gateway Learning Web Site Privacy Policy, June 20, 2003 (emphasis in original).

8. When Respondent posted the revised privacy policy, it did not take any additional steps to alert consumers that it had changed its privacy policy to permit third-party sharing of consumers' personal information. Respondent continued to rent to third parties personal information collected on the Gateway Learning Web site before June 20, 2003, including information about consumers' children.
9. On or about July 1, 2003, Respondent temporarily suspended rental of any customer data collected on its Web site. Prior to that date, Respondent had rented personal information provided by its online customers, all of whom had provided personal information under a privacy policy that stated that Respondent "do[es] not sell, rent or loan" personal information (see Exhibit A). Respondent earned approximately \$4,608 from the rental orders.
10. On July 17, 2003, Respondent posted on its Web site a further revised privacy policy, attached hereto as Exhibit C. Respondent also added the phrase "(updated July 17, 2003)" to the hyperlink for the revised policy. The revised policy contained the same statement about policy changes as the previous policies, and the following revised statements regarding children's privacy and the sharing of personal information collected through Respondent's Web site:

Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our customers, and we treat any information you share with discretion, care and respect. This notice describes Gateway Learning

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Corporation's privacy policy for information we collect from individuals both online (on our website) and offline (such as by mail or telephone).

* * *

Do we disclose your personally identifiable information to third parties?

From time to time, we may provide your name, address and telephone number (not your e-mail address) to reputable companies whose products or services you may find of interest. If you do not want us to disclose this information to these companies, please write to us at: Gateway Learning Corporation, 2900 South Harbor Blvd., Suite 202, Santa Ana, CA 92704, call 1-800-544-7323 or e-mail us at do-not-rent@hop.com with your full name in the subject line. Please be sure to include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request. We will process your request promptly. Please be aware that you may receive another contact before your name removal takes effect. We regret any inconvenience this may cause.

* * *

What about children's privacy?

The Site is not targeted to children, and we do not knowingly collect personally-identifiable information from children under the age of 13 on this site. We do not sell products for purchase by children; we sell children's products for purchase by adults. This site is entirely aimed at adults.

Exhibit C, Gateway Learning Web Site Privacy Policy, July 17, 2003 (emphasis in original).

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11. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that:
 - A. Respondent would not sell, rent, or loan to third parties any personal information collected from consumers on the Gateway Learning Web site unless it received consumers' explicit consent.
 - B. Respondent would not provide to any third party for any purpose any personal information about children under the age of thirteen.
12. In truth and in fact:
 - A. Respondent did rent to third parties personal information collected from consumers without receiving consumers' explicit consent.
 - B. Respondent did provide to third parties personal information about children under the age of thirteen, specifically, age range (0-5 years old, 2-5 years old, and 6-10 years old), gender, and parent's name and address.

Therefore, the representations set forth in Paragraph 11 were false or misleading.

13. As described in Paragraphs 7 - 9, Respondent posted a revised privacy policy containing material changes to its practices that were inconsistent with Respondent's original promise to consumers. Respondent retroactively applied such changes to personal information it had previously collected from consumers. Respondent's retroactive application of its revised privacy policy caused or is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. The practice was, and is, an unfair act or practice.

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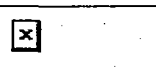
14. Through the means described in Paragraph 5, Respondent has represented, expressly or by implication, that Respondent would notify consumers of material changes to its information practices.
15. In truth and in fact, Respondent did not notify consumers of material changes to its information practices. Instead, Respondent posted a revised privacy policy on its Web site without any indication that the policy had materially changed or what aspects of the policy had changed. Therefore, the representation set forth in Paragraph 14 was, and is, false or misleading.
16. The acts and practices of Respondent as alleged in this complaint constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this tenth day of September, 2004, has issued this complaint against Respondent.

EXHIBIT A



About Us



Click Here to Chat



Call our toll-free number: 1-800-532-3607

Reading

Better Grades

Math

For Teachers

Promise of Privacy

**Any information you
provide us is held in trust
with care and security.**

Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our visitors, and we treat any information you share with discretion, care and respect. This notice describes our privacy policy for the Hooked on Phonics Web site ("Site").

Do we share your personally identifiable information with third parties?

We do not sell, rent or loan any personally identifiable information regarding our consumers with any third party unless we receive a customer's explicit consent. We do share information with third parties that help us run our operations or provide services to customers (e.g., credit card processing and shipping companies), but only to the extent necessary to provide these services.

How secure is the personally identifiable information that you provide?

We protect the security of your credit card information during transmission by using Secure Sockets Layer (SSL) software, which encrypts information you input. We reveal only the last four digits of your credit card number when confirming an order. We do transmit the entire credit card number to the appropriate credit card company during order processing. We have also implemented security measures to protect against the loss, misuse, and alteration of other personally identifiable user information submitted to our Site.

We gather personally identifiable information during checkout, during membership or sweepstakes registration and when visitors request our information packet or other materials.

We also receive and store certain types of information automatically through the use of "cookies" and 1-pixel gifs. Cookies are files that your Web browser places on your computer's hard drive. 1-pixel gifs are tags that reside on certain of our Web pages. We use cookies and gifs to track your experience with this Site, to keep track of items you put into your shopping cart, to tell us whether you have visited this Site previously, and to help us determine if you came from a particular link or banner advertisement. You may set your browser to reject cookies, but this may limit some functionality of the Site.

We do not use cookies or gifs to retrieve personal information about you from your computer.

What type of personal information is gathered?

We gather the following information: name, address, phone number, e-mail address, billing information (i.e., credit card number and expiration date) and responses to specific questions (e.g., reasons for visiting our Site). We may also record the types of product information you have requested on the Site. In addition, members may have the option of adding children's names and ages to their membership record.

Like most Web sites, we may also add to the above personally identifiable information a variety of technical data, including (but not limited to) your IP address (a unique number that identifies your access account on the Internet), domain, and Web browser information. We may track the page you visited before coming to our Site, the page you link to when you leave, which of our pages you access, and how long you spend on each page.

Why is this information gathered?

We use personally identifiable information for shipping and billing purposes, to send brochures to visitors who request information, to enter members in sweepstakes (and to inform sweepstakes winners of their selection), to provide visitors with special offers, and to notify visitors of new product launches.

We also use the personally identifiable information to personalize your experience on the Site, to customize our reading assessment and to recommend products that are best suited to a particular child's educational needs.

We occasionally use information about what banners or links have brought you to our Site to measure advertising effectiveness and to determine payment to advertising partners.

If you would prefer not to be contacted by us, you may opt out of future communications (see "opting-out" section below).

How is non-personally identifiable data used?

We use non-personally identifiable data for internal business and marketing purposes, and share such data with third parties, including current or potential business partners.

What about children's privacy?

The Site does not sell products for purchase by children; we sell children's products for purchase by adults. Children under 13 years of age may not submit personal information without the consent of their parents. We do not provide any personally identifiable information about children under 13 years of age to any third party for any purpose whatsoever.

We may in the future offer products to be used by children online, some of which may require you to enter additional information such as a child's age, gender or reading ability in order to deliver a quality experience. A child's participation in such a program will be entirely at your discretion. Again, no personally identifiable information about children under 13 years of age will be shared with any third party for any purpose whatsoever.

Additional information gathering and disclosure

Please note that our business partners may also place cookies or 1-pixel gifs on our site in order to track orders and revenue generated through referral programs. The information transmitted to our business partners is not personally identifiable.

Notwithstanding anything else in this policy, we may: (a) disclose personal and aggregate information when required by a valid legal mechanism such as a search warrant, subpoena, or court order, or when we deem it necessary to protect the safety of Site users, our employees or property; and (b) disclose personal information in the context of the sale of some or all of our assets.

How are e-mail links treated?

We use e-mail links located on the "Contact Us" page to allow you to contact us directly with any questions or comments you may have. We read every message sent in and try to reply promptly to each one. This information is used to respond directly to your questions or comments. We may also file

your comments to improve the Site and program, or review and discard the information.

Can I opt out of receiving communications from Gateway Learning Corporation?

Yes. This Site gives you the following options for removing your information from our database so that you will not receive future communications:

You can send an e-mail to webmaster@hop.com with the word UNSUBSCRIBE in the subject line.

You can send mail to the following postal address:

Gateway Learning Corporation
665 Third St., Suite 225
San Francisco, CA 94107
Attn: Webmaster

Links

This Site may contain links to other Web sites. Gateway Learning Corporation is not responsible for the privacy practices or the content of such Web sites.

How can I modify my personal information?

This Site gives users the following options for changing and modifying information previously provided:

You can send e-mail to webmaster@hop.com.

You can send mail to the following postal address:

Gateway Learning Corporation
665 Third Street, Suite 225
San Francisco, CA 94107
Attn: Webmaster

Will this policy change?

If at some future time there is a material change to our information usage practices that affect your personally identifiable information, we will notify you of the relevant changes on this Site or by e-mail. You will then be able to opt-out of this information usage by sending an e-mail to: webmaster@hop.com. You should also check this privacy policy for changes.

How do I contact the Web site?

If you have any questions about this privacy statement, the practices of this Site, or your dealings with this Site, you may contact:

Webmaster
Gateway Learning Corporation
665 Third Street, Suite 225
San Francisco, CA 94107

or webmaster@hop.com

EXHIBIT B



Questions? We can help!

1-800-532-3607 (Dept 59)

Reading Better Grades Math For Teachers

Phonics Web Site



Any information you provide us is held in trust with care and security.



Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our visitors, and we treat any information you share with discretion, care and respect. This notice describes our privacy policy for the Hooked on Phonics Web site ("Site").

Do we share your personally identifiable information with third parties?

From time to time, we may provide your name, address and phone number (not your e-mail address) to reputable companies whose products or services you may find of interest. If you do not want us to share this information with these companies, please write to us at: Gateway Learning Corporation, 2900 South Harbor Blvd., Suite 202, Santa Ana, CA 92704, call 1-800-544-7323 or e-mail us at info@hookedonphonics.com with the word do-not-share in the subject line.

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Additional Information gathering and disclosure

Please note that our business partners may also place cookies or 1-pixel gifs on our site in order to track orders and revenue generated through referral programs. The information transmitted to our business partners is not personally identifiable.

Notwithstanding anything else in this policy, we may: (a) disclose personal and aggregate information when required by a valid legal mechanism such as a search warrant, subpoena, or court order, or when we deem it necessary to protect the safety of Site users, our employees or property; and (b) disclose personal information in the context of the sale of some or all of our assets.

How are e-mail links treated?

We use e-mail links located on the "Contact Us" page to allow you to contact us directly with any questions or comments you may have. We read every message sent in and try to reply promptly to each one. This information is used to respond directly to your questions or comments. We may also file your comments to improve the Site and program, or review and discard the information.

Can I opt out of receiving communications from Gateway Learning

Corporation?

Yes. This Site gives you the following options for removing your information from our database so that you will not receive future e-mail communications:

You can send an e-mail to webmaster@hookedonphonics.com with the word UNSUBSCRIBE in the subject line.

You can send mail to the following postal address:

Gateway Learning Corporation
2900 South Harbor Blvd., Suite 202
Santa Ana, CA 92704
Attn: Webmaster

Links

This Site may contain links to other Web sites. Gateway Learning Corporation is not responsible for the privacy practices or the content of such Web sites.

How can I modify my personal information?

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You can send mail to the following postal address:

Gateway Learning Corporation
2900 South Harbor Blvd., Suite 202
Santa Ana, CA 92704
Attn: Webmaster

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How do I contact the Web site?

If you have any questions about this privacy statement, the practices of this Site, or your dealings with this Site, you may contact:

Webmaster
Gateway Learning Corporation
2900 South Harbor Blvd., Suite 202

Santa Ana, CA 92704

or www.hopewell.com

Service provided by Hopewell Financial Corporation. All rights reserved.

EXHIBIT C



HOOKED ON PHONICS™

Questions? We can help! 1-866-746-6533 (Dept. 1030)

Promise of Privacy

[About Us](#)

[View Cart](#)

[Click Here to Chat](#)

[Reading](#)

[Better Grades](#)

[Math](#)

[For Teachers](#)

Any information you
provide us is held in trust
with care and security.

Our Promise of Privacy

We at Gateway Learning Corporation are committed to protecting the privacy of our customers, and we treat any information you share with discretion, care and respect. This notice describes Gateway Learning Corporation's privacy policy for information we collect from individuals both online (on our website) and offline (such as by mail or telephone).

What types of personal and non-personal information do we gather online and offline?

We gather personally identifiable information when you contact Hooked on Phonics by mail, phone, e-mail, visit our Site, or by filling out requests for information through our advertisements and promotions, and by subscribing to newsletters. We collect only personal information that you provide to us such as: name, address, phone number, e-mail address, responses to specific questions (e.g., reasons for visiting our Site, the age of a child that requires a reading program, and for orders, shipping and billing information (i.e., credit card number and expiration date). We may also record the types of product information you have requested on the Site.

How do we use the personal and non-personal information that we gather?

We use personally identifiable information for shipping and billing purposes, to respond to consumers' requests, to provide consumers with special offers, and to notify consumers of new product launches. We also use the personally identifiable information to personalize your experience on our Site, to customize our reading assessment, to recommend products that are best suited to a particular child's educational needs, and to allow us to better understand how Hooked on Phonics may serve your needs.

Like most Web sites, we may also add to the above personally identifiable information a variety of technical data, including (but not limited to) your IP address (a unique number that identifies your access account on the

Internet), domain, and Web browser information. We may track the page you visited before coming to our Site, the page you link to when you leave, which of our pages you access, and how long you spend on each page.

How is non-personally identifiable data used?

We use non-personally identifiable data for internal business and marketing purposes, and share such data with third parties, including current or potential business partners. For example, we occasionally use information about what banners or links have brought you to our Site to measure online advertising effectiveness and to determine payment to our online advertising partners.

What about cookies and gifs?

We receive and store certain types of information automatically through the use of "cookies" and 1-pixel gifs. Cookies are files that your Web browser places on your computer's hard drive. 1-pixel gifs are tags that reside on certain pages of our Web site. We use cookies and gifs to track your experience with this website, to keep track of items you put into your shopping cart, to tell us whether you have visited this site previously, and to help us determine if you came from a particular link or banner advertisement. You may set your browser to reject cookies, but this may limit some functionality of the Site.

We do not use cookies or gifs to retrieve personal information about you from your computer.

Please note that our business partners may also place cookies or 1-pixel gifs on our site in order to track orders and revenue generated through referral programs. This information is not personally identifiable.

Do we disclose your personally identifiable information to third parties?

From time to time, we may provide your name, address and telephone number (not your e-mail address) to reputable companies whose products or services you may find of interest. If you do not want us to disclose this information to these companies, please write to us at: Gateway Learning Corporation, 2900 South Harbor Blvd., Suite 202, Santa Ana, CA 92704, call 1-800-544-7323 or e-mail us at do-not-rent@hop.com with your full name in the subject line. Please be sure to include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request. We will process your request promptly. Please be aware that you may receive another contact before your name removal takes effect. We regret any inconvenience this may cause.

We also provide personally-identifiable information with third parties that we

use for our own business purposes; such as to process your order or request for information, or to provide services for us.

Notwithstanding anything else in this policy, we may: (a) disclose personal and aggregate information when required by a valid legal mechanism such as a search warrant, subpoena, or court order, or when we deem it necessary to protect the safety of Site users, our employees or property; and (b) disclose personal information in the context of the sale of some or all of our assets.

How secure is the credit card information I enter online?

We protect the security of the credit card information you provide online by using Secure Sockets Layer (SSL) software, which encrypts information you input into our shopping cart during transmission to our servers and is stored in secure locations. We reveal only the last four digits of your credit card number when confirming an order placed online. Of course, we do transmit the entire credit card number to the appropriate credit card company during order processing.

What about children's privacy?

The Site is not targeted to children, and we do not knowingly collect personally-identifiable information from children under the age of 13 on this site. We do not sell products for purchase by children; we sell children's products for purchase by adults. This site is entirely aimed at adults. We may in the future offer computerized learning products to be used by children online, some of which may require you to enter additional information such as a child's age, gender or reading ability in order to deliver a quality experience.

How are e-mail links treated?

We use e-mail links located on the "Contact Us" page to allow you to contact us directly with any questions or comments you may have. We read every message sent in and try to reply promptly to each one. This information is used to respond directly to your questions or comments. We may also file your comments to improve the website and learning programs, or review and discard the information.

How can I remove my information from your rental list?

If you do not want us to disclose personal information that you provide to us to third parties for their own marketing purposes, please write to us at: Gateway Learning Corporation, 2900 South Harbor Blvd., Suite 202, Santa Ana, CA 92704, call 1-800-544-7323 or e-mail us at Do-not-rent@HQP.com with your full name in the subject line. Please be sure to include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request. We will process your request promptly. Please

be aware that you may receive another contact before your name removal takes effect. We regret any inconvenience this may cause.

Can I opt out of receiving communications from Gateway Learning Corporation?

Yes. We will process your request promptly. Please be aware that you may receive another contact before your name removal takes effect. We regret any inconvenience this may cause. This website gives you the following options:

If you do not wish to receive direct mail communications, send an e-mail to Do-not-mail@HOP.com with your full name in the subject line. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request.

If you do not wish to receive e-mail communications, send an e-mail to Opt-out@HOP.com with the word UNSUBSCRIBE in the subject line. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request.

If you do not wish to receive telephone communications, send an e-mail to Do-not-call@HOP.com with your full name in the subject line. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request.

If you do not wish to receive any communications, send an e-mail to Do-not-contact@HOP.com with your full name in the subject line. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request.

If you prefer, you can send us a letter at the following address. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request:

Gateway Learning Corporation
2900 South Harbor Blvd., Suite 202
Santa Ana, CA 92704
Attn: Customer Service

Links

This Site may contain links to other Web sites. Gateway Learning Corporation is not responsible for the privacy practices or the content of such Web sites.

How can I modify my personal information?

This Site gives users the following options for changing and modifying information previously provided:

You can send e-mail to customerservice@HQP.com with CHANGE INFO REQUEST in the subject line. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request.

If you prefer, you can send us a letter at the following address. Please include your first name, last name, address, city, state, zip code, and phone number to ensure we can process your request.

Gateway Learning Corporation
2900 South Harbor Blvd., Suite 202
Santa Ana, CA 92704
Attn: Customer Service

Will this policy change?

If at some future time there is a material change to our information usage practices that affect your personally identifiable information, we will notify you of the relevant changes on this Site or by e-mail. You will then be able to opt-out of this information usage by sending an e-mail to: customerservice@HQP.com. You should also check this privacy policy for changes.

How do I contact the Web site?

If you have any questions about this privacy statement, the practices of this Site, or your dealings with this Site, you may contact:

Customer Service
Gateway Learning Corporation
2900 South Harbor Blvd., Suite 202
Santa Ana, CA 92704

or customerservice@HQP.com

Policy updated July 17, 2003

Customer Service | Promise of Privacy | Contact | Affiliates | KinderCare® | Disclosures
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Decision and Order

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 Complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the Respondent with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 et seq.

The Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), an admission by the Respondent of all the jurisdictional facts set forth in the aforesaid draft Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that 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 has reason to believe that the Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having thereupon accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days, and having duly considered the comment filed thereafter by an interested party pursuant to Section 2.34 of its Rules, now in further conformity with the procedure described in Section 2.34 of its Rules, the Commission hereby issues its Complaint, makes the following jurisdictional findings and enters the following Order:

1. Respondent Gateway Learning Corporation is a Delaware corporation with its principal office or place of business at 2900 South Harbor Boulevard, Suite 202, Santa Ana, CA 92704.

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2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

ORDER

DEFINITIONS

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

1. “Personally identifiable information” or “personal information” shall mean individually identifiable information from or about an individual including, but not limited to: (a) a first and last name; (b) a home or other physical address, including street name and name of city or town; (c) an email address or other online contact information, such as an instant messaging user identifier or a screen name that reveals an individual’s email address; (d) a telephone number; (e) a Social Security number; (f) a persistent identifier, such as a customer number held in a “cookie” or processor serial number, that is combined with other available data that identifies an individual; or (g) any other information from or about an individual that is combined with any of (a) through (f) above.
2. Unless otherwise specified, “Respondent” shall mean Gateway Learning Corporation and its successors and assigns and its officers, and its agents, representatives, and employees.
3. “Commerce” shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that Respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the collection of personal information from or about an individual, shall not misrepresent in any manner, expressly or by

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implication:

- A. That Respondent will not sell, rent, or loan to third parties such personal information;
- B. That Respondent will not provide to any third party personal information about children under the age of thirteen;
- C. The manner by which Respondent will notify consumers of changes to its privacy policy; or
- D. The manner in which Respondent will collect, use, or disclose personal information.

II.

IT IS FURTHER ORDERED that Respondent, directly or through any corporation, subsidiary, division, or other device, shall not disclose to any third party any personal information collected on the www.hop.com Web site prior to the date Gateway posted its revised privacy policy permitting third-party sharing (June 20, 2003), unless Respondent obtains the express affirmative (“opt-in”) consent of the consumers to whom such personal information relates.

III.

IT IS FURTHER ORDERED that Respondent, in connection with the posting of any privacy policy that contains a material change from the previous version of the policy, shall not apply such changes to information collected from or about consumers before the date of the posting, unless Respondent obtains the express affirmative (“opt-in”) consent of the consumers to whom such personal information relates.

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IV.

IT IS FURTHER ORDERED that within five (5) days of the date of service of this Order, Respondent, its successors and assigns, shall pay \$4,608 to the United States Treasury as disgorgement. Such payment shall be by cashier's check or certified check made payable to the Treasurer of the United States. In the event of any default in payment, which default continues for more than ten (10) days beyond the due date of payment, Respondent shall also pay interest as computed under 28 U.S.C. § 1961, which shall accrue on the unpaid balance from the date of default until the date the balance is fully paid.

V.

IT IS FURTHER ORDERED that respondent Gateway Learning Corporation and its successors and assigns shall, for a period of five (5) years after the date of issuance of this Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying a print or electronic copy of all documents demonstrating their compliance with the terms and provisions of this Order, including, but not limited to:

- A. a sample copy of each different privacy statement or communication relating to the collection of personally identifiable information containing representations about how personally identifiable information will be used or disclosed. Each Web page copy shall be dated and contain the full URL of the Web page where the material was posted online. Electronic copies shall include all text and graphics files, audio scripts, and other computer files used in presenting the information on the Web; provided, however, that after creation of any Web page or screen in compliance with this Order, Respondent shall not be required to retain a print or electronic copy of any amended Web page or screen to the extent that the amendment does not affect Respondent's compliance obligations under this Order;

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- B. a sample copy of each different document relating to any attempt by Respondent to obtain the express affirmative (“opt-in”) consent of consumers and copies of any documents demonstrating such consent provided by consumers, as required by Parts II and III of this Order; and
- C. all invoices, communications, and records relating to the disclosure of personally identifiable information to third parties.

VI.

IT IS FURTHER ORDERED that respondent Gateway Learning Corporation and its successors and assigns 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 responsibilities with respect to the subject matter of this Order. Respondent shall deliver this Order to such current personnel within thirty (30) days after the date of 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 Gateway Learning Corporation and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) 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 the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which a respondent learns less than thirty (30)

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days prior to the date such action is to take place, the 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 Gateway Learning Corporation and its successors and assigns shall, within sixty (60) days after service of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

IX.

This Order will terminate on September 10, 2024, or twenty (20) years from the most recent date that the United States or the Federal Trade 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 less than twenty (20) years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. 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 a 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 will terminate according to this Part as

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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.

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Gateway Learning Corporation ("GLC"). GLC markets and sells products designed for children who are learning math and reading under the "Hooked on Phonics" brand name and trademark.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns alleged misrepresentations about how personal information collected from consumers through the proposed respondent's Web site would be used and alleged unfair practices in connection with proposed respondent's changes to its online privacy policy. The proposed respondent collects personal information from consumers on its Web site, including information from parents who purchase Hooked on Phonics products for their children. Such information includes the parent's first and last name, address, phone number, email address, purchase history, and his or her child's age range and gender. The proposed respondent maintains a privacy policy on its Web site that describes how it handles personal information collected from consumers.

The Commission's complaint charges that the proposed respondent falsely represented that information collected from consumers through its Web site would not be sold, rented, or loaned to third parties and that personal information about children under the age of thirteen would not be provided to any third party for any purpose. In fact, the complaint alleges, proposed respondent rented to third parties information about

Analysis

consumers and the age range and gender of their children. This information was used to send direct mail and make telemarketing calls to consumers.

The complaint also alleges that by posting a revised privacy policy containing material changes to its practices that were inconsistent with its original promise to consumers and retroactively applying such changes to previously-collected information, the proposed respondent engaged in an unfair practice. As alleged in the complaint, the proposed respondent collected personal information under a privacy policy that specifically stated that it did not sell, rent, or loan such information to third parties. It then changed its posted privacy policy to state that it may provide such information to third parties and, without providing any additional notice to consumers, applied this change to information collected under the earlier policy. Thus, without sufficient notice to consumers, the proposed respondent adopted a new policy and practice of sharing information with third parties that directly contradicted the promise made to consumers when the information was collected. The complaint alleges that this retroactive application of proposed respondent's revised privacy policy caused or is likely to cause substantial injury to consumers by subjecting them to unwanted direct mail and telemarketing calls. Further, such injury is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers.

Lastly, the complaint alleges that the proposed respondent misrepresented that it would notify consumers of material changes to its information practices, when in fact, it did not notify consumers of material changes to its information practices. Instead, the proposed respondent posted a revised privacy policy on its Web site without any indication that the policy had materially changed or what aspects of the policy had changed.

Part I of the consent order prohibits the proposed respondent, in connection with the collection of personal information from or about an individual, from misrepresenting (1) that it will not sell,

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rent, or loan to third parties such personal information; (2) that it will not provide to any third party personal information about children under the age of thirteen; (3) the manner by which it will notify consumers of changes to its privacy policy; or (4) the manner in which it will collect, use, or disclose personal information.

Part II of the order prohibits the proposed respondent from disclosing to any third party any personal information collected on its Web site prior to the date it posted its revised privacy policy permitting third-party sharing (June 20, 2003), unless it obtains the express affirmative (“opt-in”) consent of the consumers to whom such personal information relates. Part III of the order prohibits the proposed respondent, in connection with the posting in the future of any privacy policy that contains a material change from the previous version of the policy, from applying such changes to information collected from or about consumers before the date of the posting, unless it obtains the express affirmative (“opt-in”) consent of the consumers to whom such personal information relates. Part IV of the order requires the proposed respondent to pay \$4,608 to the United States Treasury as disgorgement of its profits from renting customer data.

The remainder of the proposed order contains standard requirements that the proposed respondent: maintain copies of privacy statements and other documents relating to the collection, use or disclosure of personally identifiable information and to any efforts to obtain the consent of consumers and documents demonstrating such consent as required by Parts II and III of the order; distribute copies of the order to certain company officials and employees; notify the Commission of any change in the corporation that may affect compliance obligations under the order; and file one or more reports detailing its compliance with the order. Part IX of the proposed order is a provision whereby the order, absent certain circumstances, terminates twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on

Analysis

the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way its terms.

The proposed order, if issued in final form, will resolve the claims alleged in the complaint against the named respondent. It is not the Commission's intent that acceptance of this consent agreement and issuance of a final decision and order will release any claims against any unnamed persons or entities associated with the conduct described in the complaint.

Complaint

IN THE MATTER OF

SANOFI-SYNTHÉLABO, ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE FEDERAL TRADE
COMMISSION ACT*Docket C-4112; File No. 0410031**Complaint, July 28, 2004--Decision, September 20, 2004*

This consent order, among other things, requires Respondents Sanofi-Synthélabo and Aventis to divest all manufacturing facilities and other assets used to produce Arixtra® -- a factor Xa inhibitor; that is, an anticoagulant product used in acute settings to treat and prevent venous thromboembolism and other conditions relating to excessive blood clot formation -- to Glaxo SmithKline. The order also requires the respondents to divest to Pfizer all United States intellectual property -- and key clinical trials, currently conducted by Aventis -- related to Camptosar®, a cytotoxic drug used to treat colorectal cancer. In addition, the order requires the respondents to divest their royalty and other contractual rights to Estorra® -- a prescription drug for the treatment of insomnia marketed by Sepracor -- to Sepracor or another Commission-approved acquirer. An accompanying Order to Maintain Assets is requires the respondents to preserve, among other things, the viability, marketability, and competitiveness of the assets to be divested pending their divestiture.

Participants

For the Commission: *Joanne C. Lewers, Paul R. Frontczak, David A. Von Nirschl, Anne R. Schenof, Michele Cerullo, Daniel P. Ducore, Michael R. Moiseyev, Morris E. Morkre, Aileen Thompson and Mark Frankena.*

For the Respondents: *Cathy Hoffman and Michael Sohn, Arnold & Porter, and Michael Miller, Sullivan & Cromwell.*

COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act, and its authority thereunder, the Federal Trade Commission ("Commission"), having reason to believe that Respondent Sanofi-Synthélabo ("Sanofi"), a corporation subject to the jurisdiction of the Commission, has offered to acquire the