

Complaint

**IN THE MATTER OF
CHITIKA, INC.****CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5(A) OF THE FEDERAL TRADE COMMISSION ACT**

*Docket No. C-4324; File No. 102 3087
Filed June 7, 2011 – Decision June 7, 2011*

This consent order addresses the use by Chitika, Inc. (“Chitika”) of “cookies” in its online advertising to track consumers’ online activities in order to serve them targeted advertisements based upon their individual web browsing activity. The complaint alleges that Chitika violated Section 5 of the FTC Act by making false and misleading statements in its privacy policy that consumers could opt out of targeted advertising for an extended period when, in fact, the opt-out expired within 10 days. The consent order prohibits Chitika from misrepresenting (1) the extent of its data collection about consumers and (2) the extent to which consumers are able to control the collection, use, or sharing of their data. The consent order also requires Chitika to increase its opt-out period from 10 days to 10 years and to take a number of steps to improve the transparency of, and consumers’ ability to control, its collection of consumer data for online behavioral advertising.

Participants

For the *Commission*: *Peder Magee and Tracy Shapiro.*

For the *Respondent*: *Faith Kasparian and Shannon Zollo,
Morse Barnes-Brown & Pendleton.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Chitika, Inc. has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

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1. Respondent Chitika, Inc. (“Chitika” or “respondent”) is a Delaware corporation with its principal office or place of business at 1800 West Park Drive, Westborough, Massachusetts, 01581.

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.

RESPONDENT’S BUSINESS PRACTICES

3. Respondent is in the business of online behavioral advertising, which is the practice of tracking a consumer’s online activities in order to deliver advertising targeted to the individual consumer’s interests. Specifically, respondent tracks the searches a consumer has conducted, the web pages visited, and the content viewed in order to deliver or “serve” advertising targeted to the individual consumer’s interests.

4. Respondent offers an online behavioral advertising service that it markets as “Chitika Ads for Online Advertising.” As part of this service, respondent acts as an intermediary between website publishers (“publishers”) and advertisers that wish to have their advertisements placed on websites. Respondent purchases advertising space on publishers’ websites and contracts with advertisers to place their advertisements on the websites. Respondent refers to the network of publishers from which it purchases advertising space as the “Chitika network.”

5. When a consumer visits a website within the Chitika network, respondent sets a new cookie or automatically receives a cookie it has previously set in the consumer’s browser (the “Chitika tracking cookie”). Cookies are small text files that are commonly used to store information about a consumer’s online activities, including information such as the content or advertisements that a consumer views or the pages a consumer visits within a particular website. Respondent facilitates the setting or receiving of Chitika tracking cookies by providing code to publishers that redirects a consumer’s browser to respondent’s server with an instruction to

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request a new cookie or send a cookie previously set by respondent. The communication between the browser and respondent's server occurs almost instantaneously in the background and is not visible to the consumer, unless the consumer uses sophisticated web diagnostics tools.

6. The Chitika tracking cookie contains a unique identification number that allows respondent to recognize the particular consumer or computer and correlate it to online activity. When respondent sets a new Chitika tracking cookie or receives a previously-set Chitika tracking cookie, respondent adds information about the consumer's web browsing activities to the cookie, including, in some instances, the consumer's search terms. Respondent uses this cookie to serve advertisements to the consumer that are targeted to his or her interests.

7. As long as a consumer visits a website in the Chitika network from the same web browser on the same computer at least once a year, the consumer will indefinitely retain the Chitika tracking cookie in his browser.

8. Respondent stores data contained in Chitika tracking cookies in log files on its servers for up to two years.

RESPONDENT'S STATEMENTS & OPT-OUT

9. From at least May 2008 to the present, respondent disseminated or caused to be disseminated a privacy policy on respondent's website, including, but not limited to, the following statements regarding respondent's collection and use of consumer information:

When users visit a page in the Chitika network, one or more cookies - a small file containing a string of characters - are set to the computer that uniquely identifies the users (sic) browser.

Chitika uses cookies to improve the quality of the targeting service by storing anonymous activity data

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and tracking user trends, such as how people search and browse. Users can reset their browsers to refuse all cookies or to indicate when a cookie is being sent.

...

Chitika encourages and promotes business practices that protect and honor the privacy of users.

You can opt-out of receiving Chitika cookies by using the button below.

10. Directly following the above statement is a button labeled “Opt-Out,” with an adjacent statement that “You are currently not opted out.” (Exhibit A) When a consumer clicks the “Opt-Out” button, the message adjacent to the button changes to, “You are currently opted out.” (Exhibit B)

11. When a consumer selects respondent’s opt-out, respondent sets an “opt-out cookie” in the consumer’s browser. When the consumer subsequently visits a website in the Chitika network, the consumer’s browser automatically sends the opt-out cookie to respondent’s servers. When respondent receives the opt-out cookie, it does not set any additional cookies in the consumer’s browser. It also does not add any information to a previously-set Chitika tracking cookie or use the data from the cookie to target advertisements to the consumer.

12. From at least May 2008 to February 28, 2010, respondent delivered opt-out cookies that it set to expire after 10 days. Consequently, 10 days after consumers selected respondent’s opt-out, the opt-out cookies automatically expired and disappeared from consumers’ browsers. When consumers then visited websites in the Chitika network, respondent: (1) set new Chitika tracking cookies in consumers’ browsers that did not have a Chitika tracking cookie; or (2) automatically received Chitika tracking cookies that it set before consumers selected the opt-out. In both instances, respondent added information to the Chitika tracking cookies in order to track consumers’ online activities and serve targeted advertisements to them. Respondent did not inform consumers that the opt-out cookie would expire after 10 days.

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13. As of March 1, 2010, after being contacted by FTC staff, respondent modified the expiration date of its opt-out cookies, so that any future opt-out cookies it delivers will expire after 10 years. Respondent's modification of its opt-out cookies does not affect any opt-out cookies delivered before March 1, 2010.

VIOLATION OF THE FTC ACT

14. Through the means described in Paragraphs 9 and 10, respondent represents, expressly or by implication, that when consumers opt out of targeted advertising by Chitika, such opt-out will last for a reasonable period of time.

15. In truth and in fact, when consumers opted out of targeted advertising by Chitika, such opt-out did not last for a reasonable period of time. Therefore, the representations set forth in Paragraphs 9 and 10 were false or misleading.

16. The acts and practices of respondent, as alleged in this complaint, constitute 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 seventh day of June, 2011, has issued this complaint against respondent.

By the Commission.

EXHIBIT A

[Publishers](#)
[Advertisers](#)
[About Us](#)
[Blog](#)
[Support](#)
[Resources](#)
[Links](#)
[Login](#)

Chitika Privacy Policy

Chitika does not collect any personally identifying user-level information. Chitika's contextual targeting services solely rely on cookie-level tracking containing no personally identifying information. When users visit a page in the Chitika network, one or more cookies - a small file containing a string of characters - are set to the computer that uniquely identifies the users browser.

Chitika uses cookies to improve the quality of its targeting service by storing anonymous activity data and tracking user trends, such as how people search and browse. Users can reset their browsers to refuse all cookies or to indicate when a cookie is being sent. Chitika will not collect or use any user-level personally identifiable information without prior consent from its clients.

Chitika encourages and promotes business practices that protect and honor the privacy of users.

You can opt-out of receiving Chitika cookies by using the button below.

You are currently not opted out

If you click here we changed your advertising Opt-Out, so it now cannot be set to Off.
Clicking Cookies. Please refresh Chitika Cookies and try again.

Note: This opt-out applies to a specific browser rather than a specific user. Therefore you will have to opt-out separately from each computer or browser that you use.

Publishers | Advertisers | Account Login | Chitika Blog | Chitika Research
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EXHIBIT B

Chitika, Inc. Privacy Policy

http://chitika.com/privacy-policy.php

Chitika

Publications | Advertisers | About Us | Blog | Support | Research | Links | Login

Chitika Privacy Policy

Chitika does not collect any personally identifying user-level information. Chitika's contextual targeting services solely rely on cookie-level tracking containing no personally identifying information. When users visit a page in the Chitika network, one or more cookies - a small file containing a string of characters - are set to the computer that uniquely identifies the user's browser.

Chitika uses cookies to improve the quality of the targeting service by storing anonymous activity data and tracking user trends, such as how people search and browse. Users can test their browsers to refuse all cookies or to indicate when a cookie is being sent. Chitika will not collect or use any user-level personally identifiable information without prior consent from its clients.

Chitika encourages and promotes business practices that protect and honor the privacy of users.

You can opt-out of receiving Chitika cookies by using the button below.

You are currently opted out

[Opt-in](#)

If your status has not changed after selecting Opt-Out, your browser may be set to block Chitika Cookies. Please adjust Chitika Cookies not to agree.

Note: This opt-out applies to a specific browser rather than a specific user. Therefore you will have to opt-out separately from each computer or browser that you use.

Publications | Advertisers | Account Login | Chitika Help | Chitika Research

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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, would charge the respondent with violation of the Federal Trade Commission Act, 15 U.S.C. § 45 *et seq.*;

The respondent 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 the 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 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 Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described 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 Chitika, Inc. (“Chitika”) is a Delaware corporation with its principal office or place of business at 1800 West Park Drive, Westborough, Massachusetts, 01581.

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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 Chitika, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees.
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 subparagraph (A) of this definition and shall appear on the screen for a duration sufficient for an ordinary

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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 be defined as it is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
 4. “Computer” or “device” shall mean any desktop or laptop computer, handheld device, telephone, or other product or device through which a consumer can access the Internet.
 5. “Collection of data” or “collecting data” shall mean the practice of receiving any information or data from a computer or device, whether transmitted by a web browser or otherwise, and retaining that information, whether on the user’s computer or on a server. “Data collected” shall mean any information or data received from a computer or device, whether transmitted by a web browser or otherwise, and retained, whether on the user’s computer or respondent’s server(s).
 6. “Chitika user” shall mean any consumer, computer, or device that respondent has uniquely identified.
 7. “Online behavioral advertising” shall mean the practice of tracking a consumer’s online activities in order to deliver advertising targeted to the individual consumer’s interests.

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I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, website, third party, or other means, in connection with the online advertising, marketing, promotion, offering for sale, sale, or dissemination of any product or service, in or affecting commerce, shall not misrepresent in any manner, expressly or by implication: (A) the extent to which consumers may exercise control over the collection, use, disclosure, or sharing of data collected from or about them, their computers or devices, or their online activities, or (B) the extent to which data from or about a particular consumer, computer, or device is collected, used, disclosed, or shared.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, website, third party, or other means, in connection with the online advertising, marketing, promotion, offering for sale, sale, or dissemination of any product or service on websites other than respondent's, in or affecting commerce, shall:

- A. Within thirty (30) days after the date of service of the order, place a clear and prominent notice, including a hyperlink, on the homepage(s) of its website(s), which states, "We collect information about your activities on certain websites to send you targeted advertisements. To opt out of Chitika's targeted ads, click here." When selected, the hyperlink shall directly take consumers to the mechanism required by Part II.C. of the order;
- B. Within thirty (30) days after the date of service of the order, for a duration of twelve (12) months, include immediately after the notice required by Part II.A. of the order, the following statement: "If you opted out of our targeted ads before March 1, 2010, the opt-out has

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expired and you must opt out again to avoid targeted ads.”;

- C. Within thirty (30) days after the date of service of the order, provide a mechanism, separate and apart from any preferences or controls offered by consumers’ browsers, to enable Chitika users to prevent respondent from collecting data that can be associated with a Chitika user or a Chitika user’s computer or device, or that contains any unique identifier, including Chitika user ID or Internet Protocol (IP) address; from redirecting Chitika users’ browsers to third parties that collect data, absent a click or other affirmative action by such Chitika user; and from associating any previously collected data with any Chitika user’s computer or device. This mechanism shall require no more than one additional click for consumers to exercise their choice(s), and shall remain in effect for a minimum time period of five (5) years, unless the consumer deletes his or her cookies or takes deliberate action to disable the mechanism. Within close proximity to the mechanism, respondent shall clearly and prominently disclose to consumers: (1) that Chitika collects information about consumers’ activities on certain websites in order to deliver targeted advertisements; (2) that by opting out, Chitika will not collect this information for the purpose of delivering targeted advertisements; (3) the current status of their choice (i.e., “opted in” or “opted out” of collection); and (4) that their choice is specific to the browser they are using, and they need to implement the mechanism again if they use a different browser; and
- D. Within ninety (90) days after the date of service of the order, within any advertisement that respondent serves as part of online behavioral advertising, include a hyperlink that directly takes consumers to the mechanism required by Part II.C. of this order. The hyperlink text shall clearly

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and prominently state: “Opt out?” While a consumer’s cursor, or functional equivalent, hovers over the hyperlink, a box shall be visible in close proximity to the hyperlink, which clearly and prominently states, “Opt out of Chitika’s targeted ads.”

III.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, third party, or other entity, shall not use, disclose, sell, rent, lease, or transfer any information that can be associated with a Chitika user or a Chitika user’s computer or device that respondent obtained prior to March 1, 2010. Within sixty (60) days after the date of service of the order, respondent shall permanently delete or destroy: (1) all such information stored in Chitika users’ cookies; and (2) all IP addresses and unique identifiers, including any Chitika user identification numbers, in log files on respondent’s server(s) and in backup tapes, and shall provide a written statement to the Commission, sworn under penalty of perjury, confirming that all such information has been deleted or destroyed. *Provided that*, if respondent is prohibited from deleting or destroying such information by law, regulation, or court order, respondent shall provide a written statement to the Commission, sworn under penalty of perjury, identifying any information that has not been deleted or destroyed and the specific law, regulation, or court order that prohibits respondent from deleting or destroying such information. Unless otherwise directed by a representative of the Commission, all statements required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line FTC v. Chitika. *Provided, however*, that, in lieu of overnight courier, notices may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at DEbrief@ftc.gov.

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IV.

IT IS FURTHER ORDERED that respondent shall maintain, and upon request make available to the Federal Trade Commission for inspection and copying, a print or electronic copy of each document relating to compliance with the terms and provisions of this order, including, but not limited to:

- A. For a period of five (5) years, any documents, whether prepared by or on behalf of respondent, that:
 - 1. Comprise or relate to complaints or inquiries, whether received directly or indirectly, concerning: (a) any data collection by respondent; (b) the use, disclosure or sharing of such data; or (c) any mechanism to limit or prevent such collection of data or the use, disclosure, or sharing of data collected, as well as any responses to those complaints or inquiries;
 - 2. Are necessary to demonstrate full compliance with each provision of this order, including, but not limited to, all documents obtained, created, generated, or which in any way relate to the requirements, provisions, or terms of this order, and all reports submitted to the Commission pursuant to this order; or
 - 3. Contradict, qualify, or call into question respondent's compliance with this order; and
- B. For a period of five (5) years after the last public dissemination thereof, all advertisements, terms of use, end-user license agreements, frequently asked questions, privacy policies, and similar documents relating to: (a) any data collection by respondent; (b) the use, disclosure or sharing of such data; or (c) any mechanism to limit or

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prevent such collection of data or use, disclosure, or sharing of data collected, as well as any responses to those complaints or inquiries.

V.

IT IS FURTHER ORDERED that Chitika, Inc., 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 current personnel within thirty (30) days after the date of service of the order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that Chitika, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the entity 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 entity; 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 entity name or address. *Provided, however,* that with respect to any proposed change in the entity 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. Unless otherwise directed by a representative of the Commission, all notices required by this Part shall be sent by overnight courier (not the U.S. Postal Service) to the Associate Director of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, with the subject line FTC v. Chitika. *Provided, however,* that, in lieu of overnight courier, notices

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may be sent by first-class mail, but only if an electronic version of such notices is contemporaneously sent to the Commission at DEbrief@ftc.gov.

VII.

IT IS FURTHER ORDERED that Chitika, Inc., and its successors and assigns, within sixty (60) days after service of the order, and at such other times as the Federal Trade Commission may require, shall file with the Commission a true and accurate report, in writing, setting forth 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, Chitika, Inc. shall submit additional true and accurate written reports.

VIII.

This order will terminate twenty (20) years from the date of its issuance, 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 of 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 a 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 the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on

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appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that this 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.

**ANALYSIS OF PROPOSED CONSENT ORDER
TO AID PUBLIC COMMENT**

The Federal Trade Commission has accepted, subject to final approval, a consent agreement from Chitika, Inc. (“Chitika”).

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 appropriate action or make final the agreement’s proposed order.

Chitika is a network advertiser that engages in online behavioral advertising, the practice of tracking consumers’ activities online in order to serve them targeted advertisements based upon their individual web browsing activity. Chitika offers an online behavioral advertising service in which it acts as an intermediary between website publishers and advertisers that wish to have their advertisements placed on websites. Chitika tracks the searches a consumer has conducted, the websites visited, and the content viewed in order to serve advertising targeted to the individual

Analysis to Aid Public Comment

consumer's interests. When a consumer visits a website within Chitika's network of website publishers, Chitika sets a new cookie or automatically receives a cookie it has previously set in the consumer's browser (the "Chitika tracking cookie"). Chitika uses cookies to serve advertisements to consumers that are targeted to their interests.

The Commission alleges that representations Chitika made in its privacy policy regarding consumers' ability to opt out of receiving tracking cookies were false or misleading. Chitika's privacy policy stated that consumers could opt out of receiving Chitika cookies. For those consumers who elected to opt out, Chitika set an "opt-out cookie" in the consumer's browser so that no additional cookies would be set in the consumer's browser, no additional information would be added to a previously set Chitika tracking cookie, and the data previously placed in the cookie would no longer be used to target advertisements to the consumer. From at least May 2008 to February 28, 2010, however, Chitika delivered opt-out cookies that were set to expire after ten (10) days. Accordingly, the complaint alleges that Chitika deceived consumers and violated Section 5 of the FTC Act by making an unqualified claim that consumers could opt out of targeted advertising when the opt out expired in ten (10) days.

Part I of the proposed order prohibits Chitika from misrepresenting (1) the extent of its data collection about consumers and (2) the extent to which consumers are able to control the collection, use, or sharing of their data.

Part II of the proposed order requires Chitika to take a number of steps to improve the transparency of, and consumers' ability to control, its collection of consumer data for online behavioral advertising. First, within thirty (30) days after service of the proposed order, Chitika must place a clear and prominent notice with a hyperlink on the homepage of its website that states: "We collect information about your activities on certain websites to send you targeted advertisements. To opt out of Chitika's targeted ads, click [here](#)." The mechanism that Chitika provides to allow

consumers to prevent Chitika from collecting information about them must remain in effect for a minimum of five (5) years. Within close proximity to the mechanism, Chitika must disclose: (1) that Chitika collects information about consumers' activities on certain websites to deliver targeted ads; (2) that by opting out, Chitika will not collect this information to deliver such ads; (3) consumers' current choice status (*i.e.*, whether opted in or opted out of tracking); and (4) that consumers' choice is specific to the browser they are using (*i.e.*, if they switch browsers or devices, they will have to opt out again).

Part II of the proposed order includes two additional provisions. First, for a period of one (1) year, near the notice and hyperlink discussed above, Chitika's homepage must state that: "If you opted out of our targeted ads before March 1, 2010, the opt-out has expired and you must opt out again to avoid targeted ads."

The final provision in Part II requires that within any behaviorally targeted advertisement that Chitika serves, it must include a hyperlink that takes consumers directly to the required choice mechanism. The hyperlink text must state: "Opt out?" When a consumer's cursor, or equivalent, is placed over the hyperlink, a box shall be visible that clearly and prominently states, "Opt out of Chitika's targeted ads."

Part III of the proposed order restricts Chitika's use of any data that it collected from consumers prior to March 1, 2010, the date on which Chitika extended the expiration date of its opt-out cookies from ten (10) days to ten (10) years. Specifically, the proposed order prevents Chitika from using, selling, or transferring "any information that can be associated with a Chitika user or a Chitika user's computer or device" that the company obtained prior to March 1, 2010. In addition to restricting the use of this data, within sixty (60) days after the service of the order, Chitika must delete any such information stored in Chitika users' cookies and any information retained in Chitika's files that would allow the information to be associated with a particular consumer or that consumer's computer or device.

Analysis to Aid Public Comment

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Chitika to retain documents relating to its compliance with the order. Part V requires dissemination of the order to all current and future principals, officers, directors, managers, employees, agents, and representatives having responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that Chitika submit a report to the Commission detailing its compliance with the order. Part VIII provides that the order expires after twenty (20) years, with certain exceptions.

The purpose of the analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

Complaint

**IN THE MATTER OF
CERIDIAN CORPORATION****CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5(A) OF THE FEDERAL TRADE COMMISSION ACT**

*Docket No. C-4325; File No. 102 3160
Filed June 8, 2011 – Decision June 8, 2011*

This consent order addresses Ceridian Corporation's ("Ceridian") web-based payroll processing service for small business customers, known as "Powerpay."

The complaint alleges that Ceridian violated Section 5 of the FTC Act by failing to provide reasonable and appropriate security for the sensitive personal information it collected and maintained. As a result of these failures, hackers executed an SQL injection attack on the Powerpay website and web application and exported the information of at least 27,673 individuals, including bank account numbers, Social Security Numbers, and dates of birth. The consent order prohibits Ceridian from misrepresenting the privacy, confidentiality, or integrity of personal information it collects from or about consumers. The consent order also requires Ceridian to establish and maintain a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of such information about consumers, employees, and those seeking to become employees.

Participants

For the *Commission*: *Tiffany George* and *Jamie Hine*.

For the *Respondent*: *David Zetoony* and *Megan Gajewski*,
Bryan Cave LLP.

COMPLAINT

The Federal Trade Commission, having reason to believe that Ceridian Corporation ("respondent") has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges: