



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

Bureau of Consumer Protection

January 22, 2001

**BY FACSIMILE AND MAIL**

Christine Varney, Esq.  
Hogan & Hartson  
Columbia Square  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004-1109

Re: DoubleClick Inc.

Dear Christine:

As you know, Federal Trade Commission staff has conducted an investigation of your client, DoubleClick, Inc. ("DoubleClick"). The purpose of the investigation was to determine whether, in collecting, maintaining, using or transferring consumer information, including personal identifying information ("PII") or other sensitive information, DoubleClick engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act. The primary areas of inquiry were: 1) whether your client used or disclosed consumers' PII for purposes other than those disclosed in, or in contravention of, its privacy policy, including, in particular, whether it combined PII from Abacus Direct (an offline direct marketing company that it had acquired) with non-PII clickstream data that DoubleClick collected; and 2) whether your client used or disclosed sensitive information about consumers in contravention of its stated privacy policy.

Based on this investigation, it appears to staff that DoubleClick never used or disclosed consumers' PII for purposes other than those disclosed in its privacy policy. Specifically, it appears that DoubleClick did not combine PII from Abacus Direct with clickstream collected on client Web sites. In addition, it appears that DoubleClick has not used sensitive data for any online preference marketing product, in contravention of its stated privacy policy. We understand that DoubleClick's Boomerang product takes user data from one site to target advertising to the same user on other sites. However, the user profiles DoubleClick creates for its Boomerang clients for this targeting contain only non-PII. Furthermore, we understand that for all new Boomerang clients, DoubleClick requires by contract that the site disclose in its privacy policy that it uses DoubleClick's services to target advertising to consumers, and DoubleClick will not implement Boomerang on a site until such disclosures are posted.

Staff has determined to close the investigation at this time. This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The

Commission reserves the right to take such further action as the public interest may require.

You have advised us that DoubleClick has committed to make a number of modifications to its privacy policy to enhance its effectiveness. We encourage continued efforts to develop meaningful privacy protections for consumers, including compliance with the four widely-accepted fair information practices of notice, choice, access and security.<sup>1</sup> Specifically, DoubleClick has committed to do the following in the next release of its privacy policy:

- 1) DoubleClick has used clear GIFs (web bugs) to track users' progress within Web sites and collect information about the user. The company has agreed to disclose and explain its use of clear GIFs in its next privacy policy release.
- 2) Consumers who wish to stop DoubleClick from collecting information can do so by requesting an "opt out cookie." With certain browsers, however, when a consumer chooses the general option "Do not accept or send cookies," the DoubleClick opt out cookie is also deleted. DoubleClick has agreed to disclose in its next privacy policy that, if the user decides at a later date to accept cookies, the user will have to opt-out of DoubleClick again.
- 3) DoubleClick stated in the Privacy Policy on its Internet Address Finder ("IAF") Web site that it did not sell lists of names, addresses, or email addresses, even though it did so through an opt-in mail list managed by a marketing partner. DoubleClick agreed to revise the IAF Privacy Policy to state: "Internet Address Finder does not sell lists of names, addresses, or e-mail addresses, unless you specifically choose to sign up to receive special promotional offers or advertisements by e-mail, as described below."

Staff further notes the recent effort by the Network Advertising Initiative (NAI) to establish an ethical code for online preference marketing, and your client's commitment to abide by that code. DoubleClick has agreed to give notice to the Federal Trade Commission of any future product covered by the NAI Principles before commercial launch of such product. Please provide such notice to Bradley H. Blower, Federal Trade Commission, 600 Pennsylvania Ave. NW, Mail Stop S-4429, Washington, DC 20580.

Sincerely,



Joel Winston  
Acting Associate Director  
Division of Financial Practices

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<sup>1</sup> A majority of the Commission has stated that consumer-oriented commercial web sites that collect personal identifying information should comply with these principles. See, e.g., Privacy Online: Fair Information Practices in the Electronic Marketplace: A Report to Congress (May 2000) (available at <[www.ftc.gov/os/2000/05/index.htm#22](http://www.ftc.gov/os/2000/05/index.htm#22)>).