



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

Division of Advertising Practices

November 17, 2000

Sharis A. Pozen, Esq.  
Hogan & Hartson LLP  
555 Thirteenth Street, NW  
Washington, DC 20004-1109

Re: Healtheon/WebMD

Dear Ms. Pozen:

As you know, staff of the Federal Trade Commission conducted an investigation of your client, Healtheon/WebMD (hereinafter "WebMD"). The purpose of the investigation was to determine whether, in collecting, maintaining, using or transferring consumer information, including personal identifying information or personal health information, WebMD engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act. A primary focus of our inquiry was whether your client used or disclosed consumers' personal health information for purposes other than those disclosed in its privacy policy, including whether this information had been disclosed to third parties.<sup>1</sup>

Staff has determined to close the investigation at this time. Among other reasons, it appears that WebMD is not currently disclosing personal health information to third parties in a manner contrary to its privacy policy. 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.

Our review of the privacy policies of several major health websites, however, indicated that a number of improvements could be made. Specifically, we believed that steps could be taken to ensure that the privacy policies were clearer and more useful, for example, by presenting the policies in a clear and understandable manner, without confusing or inconsistent statements, and by clearly identifying the role of other entities operating at the websites so that consumers could better understand the uses and disclosures expected to be made of their personal information.

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<sup>1</sup> See, e.g., Letter from Federal Trade Commission to U.S. Department of Health and Human Services Commenting on Proposed Privacy Standards (February 17, 2000).

In this regard, staff notes that WebMD has made a number of improvements in its privacy policy. We encourage continued efforts to develop meaningful privacy protection for consumers, including adoption of the four widely-accepted fair information practices of notice, choice, access and security.<sup>2</sup> Staff further notes the recent industry efforts by such groups as HiEthics and the e-Health Code of Ethics Initiative to establish online health ethical codes and your client's ongoing efforts to improve its privacy policies.

Sincerely,



C. Lee Peeler  
Associate Director

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<sup>2</sup> The Commission has clearly 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)>).