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NetMagazines.com * Pets-Warehouse.com * Collectibles Today
Finish Line, Inc. * Soundview Executive Book Summaries * SmoothCorp *
DIYAutoparts.com * EYI, Inc. * Venture Works, Inc * Property Abroad
WakefieldGraphics.com * eVitamins.com * Darberg Stores LLC. * Handy Mart Inc.

May 20, 2004

Office of the Secretary
Room 159-H
600 Pennsylvania Avenue N.W.
Washington, D.C. 20580
Re: Spyware Workshop – Comment, P044509

As online retailers selling a variety of consumer products, we appreciate the opportunity to comment on Federal Trade Commission's Public Workshop, "Monitoring Software on Your PC: Spyware, Adware, and Other Software."

The FTC raised a series of broad societal questions in its call for comments. We believe that these are serious questions that need to be discussed and resolved in the public policy arena. We will leave most of the questions to be answered by others, however, we feel compelled to comment on adware's broad-reaching, negative financial impact across online retailers and the health of the Internet economy.

Adware is placed on a computer when the user downloads a free piece of software and in some cases is installed on the computer without knowledge or consent of the user. Once installed, the adware will "pop-up" various ads and tries to take the consumer to a competing website instead of the destination the consumer is trying to reach. For example, if a user visits one computer store, the adware may pop-up an ad for a competing computer store.

While this seems harmless at first glance, it's actually destructive to retailers for six reasons:

1. Adware intercepts consumers en route to a Retailer's site. (A consumer is looking in a search engine for Computer Company A, but an ad pops up trying to lead them to computer company B.)
2. Adware redirects traffic away from a Retailer's site, rerouting customers the retailer has spent advertising dollars to attract. (A consumer arrives at the retail site of their choosing. Once they get on the Computer Company A's site and tries to shop, Computer Company's B ad covers the Company A's site and tries to entice the customer away.)
3. Adware defaces the retailer's web property by changing the intended content or blocking access to it. (Online retailer's own their store and pay for the property, programming, staffing, signage and design, just as brick and mortar retailers do.)
4. Adware damages the Retailer's brand and causes consumer confusion. Consumers are up in arms about obtrusive pop-up ads and many times believe the retailer themselves are popping the ads; not even realizing adware on their own computers is forcing the ads on them. This can cause consumers to avoid the retail web site and is also driving up technical support costs. More and more consumers call or email to find out how to stop all the pop ups they think the etailer is serving.

5. Adware causes loss of revenue to the Retailer in both lost sales and increased customer acquisition and marketing costs.

6. Through the interception and redirection of paid advertising, Adware increases retail pricing for the consumer, due to increased marketing and customer acquisition costs enforced on the online retailer.

Perhaps the best way to illustrate these points is to create an analogy using a brick and mortar retail advertising.

A billboard advertising company develops a revolutionary new ad concept. Instead of putting a Billboard on a busy freeway (similar to a banner ad on a busy property like Yahoo), the billboard company targets the customers of a competing store by placing signs inside a competing store, on the front windows or a billboard blocking the entrance. They will also follow the customer through the different departments of the store showing them advertisements to competing stores as the customer looks at different products. They will even go as far as to hand the customer coupons to a competing store when the customer gets in the checkout line to buy what they have already put into their shopping cart.

In this analogy, the advertising company as well as the advertiser would be charged with criminal or civil suits such as trespassing, defacement of private property, restriction of trade and unfair advertising practices. The laws which protect retailers in the 'real' world should apply for 'virtual' retailers as well.

Internet retailers own their websites and pay for their online business, just as any brick and mortar retailer does. Our web sites are our stores. We own the property, we pay rent in hosting and domain fees and we pay for design fees, programming and maintenance. We buy inventory in the hope of selling it, pay merchandisers, customer service and other support staff. We are business owners, retailers, and employers.

When an online advertising company targets our website with adware and blocks, changes our sites or diverts our traffic and/or sales, it damages our business (and restricts our right to fair trade).

As the FTC examines the issues around adware, we urge the FTC to consider the impact of spyware/adware on our online stores and the Internet economy.

Thank you for your consideration of this matter.

Respectfully submitted,

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