



July 14, 2011

The Hon. Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Ave.  
Washington, DC  
20580

**Re: Unfair and Deceptive online tracking**

Dear Chairman Leibowitz:

I am writing on behalf of Consumer Watchdog to ask the Federal Trade Commission to use its powers under Section 5 of the Federal Trade Commission Act to investigate the apparent unfair and deceptive practices of eight online advertising networks revealed in a new study by the Stanford Security Lab (<http://cyberlaw.stanford.edu/node/6694>). Researchers Jonathan Mayer, Jovanni Hernandez and Akshay Jagadeesh tested how 64 members of the self-regulatory Network Advertising Initiative (NAI) responded when a consumer opts out of receiving behavioral advertising. The results clearly demonstrate the inadequacy of industry designed self-regulatory efforts.

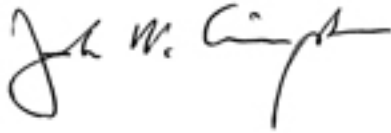
NAI offers consumers a cookie-based system of opting out of receiving ads that are targeted based on their online behavior. (<http://www.networkadvertising.org>). Once an opt-out cookie is placed on a consumer's web browser, NAI members promise not to serve ads based on web surfing habits. The Stanford researchers found the advertising companies responded in two ways. Thirty-three responded by leaving tracking cookies, but not serving targeted ads. Thirty-one removed tracking cookies in response to the opt-out cookie. Ten companies went beyond their privacy policies and removed the tracking cookies even though they did not promise to do so.

Eight companies violated their privacy policy statements, the researchers found. They promised not to track, but left tracking cookies in place. Those companies are 24/7 Real Media, Adconion, AudienceScience, Netmining, Undertone, Vibrant Media, Wall Street on Demand and TARGUSinfo Advisor.

When a company violates its own privacy policy the Federal Trade Commission has the authority under Section 5 of the Federal Trade Commission Act to take an appropriate enforcement action to halt the unfair and deceptive practice. We call on the commission to hold these companies responsible for their unfair and deceptive practices.

Once again we see a self-regulatory system established only to find a significant number of the participants in violation of the rules. Moreover, the situation demonstrates the need for a simple Do Not Track mechanism that would allow consumers not to be tracked when they are online. We believe the Commission should ask Congress for the authority to develop and enforce regulations for a Do Not Track system.

Sincerely,

A handwritten signature in black ink, appearing to read "John M. Simpson". The signature is fluid and cursive, with a long horizontal stroke at the end.

John M. Simpson  
Privacy Project Director

Cc: Commissioner Julie Brill; Commissioner William E. Kovacic, Commissioner J. Thomas Rosch; Commissioner Edith Ramirez; David Vladeck, Director Bureau of Consumer Protection, Donald S. Clark, Secretary.