



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

FAX COVER SHEET

To: Anthony E. DiResta, Esq
Reed Smith LLP

Fax Number: 202-414-9299

No. of Pages: 18 (including cover)

Date: March 4, 2008

Time: 5:33 pm

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Notes: Tony, please use this version (mentioned in my voicemail), with the production dates and a typo corrected. Alain

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March 4, 2008

By Facsimile (202.414.9299) and U.S. Mail

Anthony E. DiResta, Esq.
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1301 K Street, NW
Suite 1100 B East Tower
Washington, DC 20005-3373

Re: CVS Caremark Corporation ("CVS")

Dear Mr. DiResta:

We have reviewed the information and documents you provided on November 13, 2007 and February 1, 2008 (collectively, the "CVS production"). In a number of instances, the CVS production evinces an inadequate or incomplete response to our requests for documents and information (collectively, the "Request"). Accordingly, we ask CVS to supplement the CVS production to respond fully to our Request, including a new certification by a responsible CVS official that the response as supplemented is full and complete.

To provide guidance in preparing a supplemental response, we set out below certain concerns about the compliance of the CVS production with instructions and specific requests in our Request. (The Request, with instructions, is attached as Attachment A for your convenience.)

Instructions: CVS did not comply with several instructions in our Request in a number of instances.

Instruction 3: CVS did not follow the instruction to indicate, for documents that are undated, the date on which the documents were prepared or received. For

example,

Instruction 4: CVS generally did not follow the instruction to provide a written statement in the event it did not have documents that were responsive to a particular request, or where the documents were only partially responsive. For example, CVS produced incomplete and inadequate information about its: (1) information security training program; (2) auditing and monitoring of stores for compliance with disposal policies; and (3) investigation of any and all incidents related to unauthorized access to personal information (*see* requests 8, 10, and 14 below). CVS did not, however, produce a written statement to fully respond to the requests.

Instruction 5: CVS did not follow the instruction to provide responses covering the entire time period (from June 1, 2005 to the date of the CVS production), including information relating to both original and modified policies or procedures where the policies or procedures changed during the period. For example,

CVS failed to provide, however, the previous policies, or an explanation of the changes made as a result of the updates to the policy.

Specific Requests: Although we do not purport to identify below every respect in which the response to a particular request may be inadequate, we identify certain concerns to provide guidance to CVS for supplementing its production. Please note that if CVS does not have documents that are responsive to a request or has documents that are only partially responsive, it should so state and include a narrative in the response to the request, pursuant to Instruction 4.

Request 2: The request seeks information about CVS's corporate structure. The response is inadequate: It does not include the narrative required by the request. While the production includes a chart entitled "CVS Overview of Parent and Significant Subsidiaries," it does not identify all the entities CVS supervises or controls or describe the relationship between each such entity and CVS as required.

Request 3: The request asks CVS to identify information, from or about consumers, that CVS receives, creates, or maintains. The response is inadequate: While the response identifies certain types of information received from consumers, it does not include other types of information pharmacies commonly receive from customers, such as prescriptions, or identify the specific types of information associated with third-party payment. Further, the response does not identify the types of information received

about consumers from others, such as information from insurers and physicians.

Request 4: The request seeks information about how CVS uses, maintains, or stores the information identified in the response to request 3. The response is inadequate: It does not describe how CVS uses, maintains, and stores each type of information identified in the response to request 3, nor does it provide a complete, unredacted representative example of each type of document.)

Common experience suggests that many other types of documents are used in pharmacies to record information from or about consumers.

Request 5: The request seeks information about CVS's written information security policy. The response is inadequate: Although it includes "Blue Bag" memoranda and other documents that tangentially address information security (such as store closing and loss prevention materials), there does not appear to be a written information security policy, nor did CVS specify in a narrative that it does not have such a policy. Moreover, the documents provided are inadequate as to CVS's disposal of personal information (which is a subset of the information sought in the request). These documents do not appear to address: (1) the complete disposal life cycle of personal information (as defined in Instruction 9); (2) whether the "Blue Bag" policy was applicable to all CVS stores; or (3) the administrative, technical, and physical elements of an information security program (such as a written information security program, the identification of material internal or external risks to such information from unauthorized access, the design of reasonable measures to control such risks, or the ongoing monitoring or adjustment of the information security program to address material changes either to the risks or to the business operations that affect such risks).

Request 7: The request seeks information about each substantially different employee handbook for employees with responsibilities in connection with the preparation and sale of prescription medicines and supplies. The response is inadequate: Although the documents produced include

the response does not include any such employee handbook or comprehensive guidance about such employee duties and responsibilities. To the extent there is no employee handbook or comprehensive guidance, CVS should include a narrative response so stating.

Request 8: The request seeks information about security training. The response is inadequate: For the relevant time period, the documents produced do not

describe in detail the nature and content of the security training CVS provides employees, which employees receive the training, how often employees are trained, who does the training, trainer qualifications, or whether the training was standardized across all CVS stores.

Request 9: The request seeks information about security statements CVS has made. The response is incomplete:

CVS
should provide, for the relevant time period, all other policies or statements made by CVS to consumers regarding its collection, disclosure, use, and protection of personal information (including any state specific policies), whether posted online or available offline, as specified in the request.

Request 10: The request seeks all documents that describe how CVS reviews or monitors the compliance of its stores with its policies for disposing of personal information, and all documents relating to each such review. The response is inadequate

Request 11: The request seeks information about assessments of the risk to the security and confidentiality of personal information, including resulting changes in CVS's information security program. The response is inadequate: It reproduces the compliance documents submitted in response to request 10, but does not include documents that: (1) purport to discover new risks; (2) set out a narrative of the process followed to identify risks; (3) identify the risks; or (4) explain how the information security program was changed in light of the risks.

Request 12: The request seeks information about certain statements CVS issued in July and November 2006. The response is incomplete: It does not specifically identify the types of documents and personal information to which the statements apply.

Request 13: The request seeks information and documents about the dumping incidents. The response is inadequate: First, it does not describe in detail resulting changes to policies and procedures; instead it includes only

general statements about changes in policies and procedures. Further, the documents submitted consist almost entirely of consumer complaints about the incidents and CVS apologies offering gift cards. Notably absent from the response, among other things, are: (1) internal or external assessments of compliance with CVS disposal policies; (2) documents that question or critique compliance with CVS policies; and (3) documents that show that sanctions were considered or imposed on employees as a result of the dumping incidents. Also absent are documents related to investigation of the incidents, including documents that support or contradict CVS press releases and letters to consumers characterizing the incidents as inadvertent.

Request 14: The request seeks information and documents about other instances where personal information was or may have been disposed contrary to CVS policies. Initially, CVS refused to respond, claiming that such information is not relevant to this investigation and is unlikely to lead to relevant evidence. In its subsequent response, CVS limited the scope of the request. However, CVS's response continues to be incomplete, as the FTC has determined that yet other similar incidents involving CVS have been reported by the media, including in Columbus, Ohio. All such incidents of improper disposal (not limited to disposal in dumpsters), whether paper or electronic, are relevant to whether CVS's information security practices were reasonable and complied with the FTC Act.

Request 15: The request seeks complaints and communications with government agencies, among others, that relate to improper disposal of personal information. The response appears to be inadequate in that it does not include all communications received from other governmental agencies or boards, including other state Pharmacy Boards. A Cincinnati, Ohio television station reported finding personal information in CVS dumpsters and that "the Ohio Board of Pharmacy said it would investigate who is breaking the law and do what's necessary to keep your private information out of the public's hands."

Please send responsive materials to Loretta H. Garrison, Kristin K. Cohen, and Alain Sheer, Federal Trade Commission, Division of Privacy and Identity Protection, 600 Pennsylvania Avenue, NW, Stop NJ 3158, Washington, D.C. 20580. We request that the production be made on a rolling basis, as follows: responses to requests 10, 11, 13, and 14 should be produced by March 17; responses to requests 3, 4, 5, and 8 should be produced by March 24; and the production should be completed on or before March 31, 2008. Due to extensive delays resulting from security measures taken to ensure the safety of items sent through the U.S. Postal Service, we would appreciate receiving these materials by overnight delivery service. In addition, we propose meeting with CVS and staff from the Office of Civil Rights to discuss the production at 1 PM on Tuesday, April 8, 2008 or Wednesday, April 9, 2008

at the Commission's New Jersey Avenue offices. Please contact us to confirm a date and time for the meeting, or if you have questions or need additional information.

Sincerely,



Alain Sheer
Federal Trade Commission

Attachment