



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

Office of the Secretary

June 25, 2013

Mr. Steven Krauss
Commonwealth of Massachusetts

Re: In the Matter of HTC America, Inc., File No. 122 3049, Docket No. C-4406

Dear Mr. Krauss:

Thank you for your comment regarding the Federal Trade Commission's proposed consent agreement in the above-entitled proceeding. The Commission has placed your comment on the public record pursuant to rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii), and has given it serious consideration.

Your comment urges the Commission to "implement the consent agreement with HTC such that HTC is compelled to do whatever is necessary to correct the security flaws in its phones." The Commission believes the proposed order provides strong protections for consumers, including the requirement that HTC America, Inc. develop and provide security patches for the enumerated vulnerabilities for millions of devices and that the company establish and maintain a comprehensive security program to help prevent such vulnerabilities in the future.

In addition, your comment urges that further violations "be dealt with swiftly and with all the resources the government can bring to bear, including, if possible, criminal penalties." The complaint in this matter alleges violations of Section 5 of the FTC Act. The Commission is a civil law enforcement agency and does not have authority to seek criminal penalties. However, once the order becomes final, HTC America, Inc. will risk civil penalties of up to \$16,000 per violation of any term of the order, or up to \$16,000 per day in the case of continuing violations (as provided by Section 5(l) of the FTC Act, 45 U.S.C. § 45(l), as adjusted by 16 C.F.R. 1.98(c)).

Having considered all the facts of this case and all of the comments submitted in response to the proposed order, the Commission has determined that the public interest would best be served by issuing the Decision and Order in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at <http://www.ftc.gov>. It helps the Commission's analysis to hear from a variety of sources in its work. The Commission thanks you again for your comment.

By direction of the Commission, Commissioner Ohlhausen recused.

Donald S. Clark
Secretary