

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Henry Schein Practice Solutions, Inc., File No. 142 3161

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Henry Schein Practice Solutions, Inc. (“Henry Schein”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

Henry Schein develops and sells dental practice management software, including the Dentrix G5 office management software for dental practices. The Commission’s proposed complaint alleges that Henry Schein violated Section 5 of the Federal Trade Commission Act by making false representations to consumers from January 2012 through January 2014 about the security of its Dentrix G5 software. Specifically, the Commission’s proposed complaint alleges that Henry Schein falsely represented that Dentrix G5 provides industry-standard encryption of patient data and helps dentists meet the security requirements of the Health Insurance Portability and Accountability Act (“HIPAA”). The Commission’s proposed complaint alleges that, in truth and in fact, Dentrix G5 used technology that was less secure than industry-standard encryption, and was not capable of helping dentists protect patient data as required by HIPAA.

The proposed order contains provisions designed to prevent Henry Schein from engaging in the same or similar acts or practices in the future.

Part I of the proposed order prohibits Henry Schein from misrepresenting: (A) whether or to what extent any product or service designed to collect or store personal information offers industry-standard encryption; (B) the ability of the product or service to help customers meet regulatory obligations related to privacy or security; or (C) the extent to which a product or service maintains the privacy, security, confidentiality, and integrity of personal information.

Part II of the proposed order requires Henry Schein to notify affected customers that Dentrix G5 uses a less complex encryption algorithm to protect patient data than Advanced Encryption Standard, which is recommended as an industry standard by the National Institute of Standards and Technology. Part II provides for individual notice letters to affected customers and the creation of a toll-free telephone number and email address dedicated to responding to inquiries about the order.

Parts III through V of the proposed order require Henry Schein to pay \$250,000 into a fund to be administered by the Commission. If the Commission decides that direct redress to affected customers is impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines is reasonably related to Henry Schein’s practices alleged in the proposed complaint. Any money not used is to be deposited to the U.S. Treasury.

Parts VI, VII, and IX of the proposed order are reporting and compliance provisions. Part VI requires that for five (5) years after the last date of dissemination of any representation covered by the proposed order, Henry Schein will maintain and upon request make available certain materials, including: (A) all advertisements and promotional materials containing the representation; (B) all materials that were relied upon in disseminating the representation; and (C) all tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation. Part VII is an order distribution provision that requires Henry Schein to provide the order to current and future principals, officers, directors, and managers, as well as current and future employees having managerial responsibilities with respect to the subject matter of the order. Part IX requires Henry Schein to submit a compliance report within sixty (60) days after service of the order, and additional compliance reports within ten (10) days of written notice from the Commission. Part VIII of the proposed order requires Henry Schein to notify the Commission at least thirty (30) days prior to any corporate changes that may affect compliance obligations. Part X is a provision “sunsetting” the order after 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.