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CBEYOND®

August 7, 2008

VIA OVERNIGHT COURIER AND FACSIMILE TRANSMISSION

Congressman John D. Dingell
2328 Rayburn House Office Building
Washington, DC 20515

Congressman Joe Barton
2109 Rayburn House Office Building
Washington, DC 20515

Congressman Edward J. Markey
2108 Rayburn House Office Building
Washington, DC 20515

Congressman Cliff Stearns
2370 Rayburn House Office Building
Washington, DC 20515

Re: Cbeyond Response to Letter Dated August 1, 2008, Regarding Internet Privacy Issues

Dear Chairman Dingell, Ranking Member Barton, Chairman Markey, and Ranking Member Stearns:

Cbeyond serves small business customers exclusively, and we do not record or retain internet usage records for any of them. Further, Cbeyond derives no revenue from the sale of internet advertising and controls no websites that contain advertising.

The only way in which Cbeyond utilizes consumer internet searches to target advertising is this: from time-to-time Cbeyond uses Google's AdWords Pay-Per-Click service to purchase Cbeyond advertisements next to the Google search results for certain internet searches. For instance, we might use the AdWords service to place a Cbeyond advertisement to the right of the search results delivered by Google to a consumer in one of the cities where we offer service when that consumer uses the search words "small business telecommunications." When we use AdWords, we obtain absolutely no information of any kind about any consumer who does any search on Google; we only gain information from this process if a consumer voluntarily clicks on our advertisement and then requests that we contact him or her regarding our services.

Cbeyond has more than 37,000 small business customers; we do not provide any consumer services. Cbeyond's customers subscribe to an integrated package of communications services including local and long distance telephone service, toll-free telephone service, high speed internet, mobile phone services, secure back-up and file sharing, email, fax-to-email, web hosting, voice mail, managed firewall, VPN services, conference calling, unified messaging and more. All of our services are delivered over T-1 lines operating as a part of our 100% IP,

managed-packet network. We do not monitor or record the internet usage, searches, sites visited or any other internet usage statistics or information of any kind for any of our customers, nor do we have the capability to do so.

Taking the above into account, the answers to your specific questions follow:

1. **Has your company at any time tailored, or facilitated the tailoring of, Internet advertising based on consumers' internet search, surfing, or other use?**

Cbeyond Response: With the exception of Cbeyond's use of Google's AdWords service as described above, no.

2. **Please describe the nature an extent of any such practice and if such practice had any limitation with respect to health, financial, or other sensitive personal data, and how such limitations were developed an implemented.**

Cbeyond Response: With the exception of Cbeyond's use of Google's AdWords service as described above, Cbeyond has not engaged in any such practice.

3. **In what communities, if any, has your company engaged in such practice, how were those communities chosen, and during what time periods was such practice used in each? If such practice was effectively implemented nationwide, please say so.**

Cbeyond Response: With the exception of Cbeyond's use of Google's AdWords service as described above, Cbeyond has not engaged in any such practice.

4. **How many consumers have been subject to such practice in each affected community or nationwide?**

Cbeyond Response: With the exception of Cbeyond's use of Google's AdWords service as described above, Cbeyond has not engaged in any such practice.

5. **Has your company conducted a legal analysis of the applicability of consumer privacy laws to such practices? If so, please explain what that analysis concluded.**

Cbeyond Response: Cbeyond does not believe that it has ever engaged in any practice related to consumer internet usage that would implicate consumer privacy laws. Accordingly, we have never conducted a legal analysis regarding our behavior in relation to such practices.

6. **How did your company notify consumers of such practice? Please proved a copy of the notification. If your company did not specifically or directly notify affected consumers, please explain why this was not done.**

Cbeyond Response: Cbeyond does not believe that it has ever engaged in any practice related to consumer internet usage that would implicate consumer privacy laws. Accordingly, we have never had occasion to notify consumers of any such practice.

7. **Please explain whether your company asked consumers to "opt in " to the use of such practice or allowed consumers who objected to "opt out." If your company allowed consumers who objected to opt out, how did it notify consumers of their opportunity to opt out? If your company did not specifically or directly notify affected consumers of the opportunity to opt out, please explain why this was not done.**

Cbeyond Response: Cbeyond does not believe that it has ever engaged in any practice related to consumer internet usage that would implicate consumer privacy laws. Accordingly, we have never had occasion to notify consumers of any such practice or to seek opt-in or opt-out decisions from any consumer.

8. **How many consumers opted out of being subject to such practice?**

Cbeyond Response: Cbeyond does not believe that it has ever engaged in any practice related to consumer internet usage that would implicate consumer privacy laws and, accordingly, has never sought opt-in or opt-out decisions from consumers.

9. **Did your company conduct a legal analysis of the adequacy of any opt-out notice an mechanism employed to allow consumers to effectuate this choice? If so, please explain what that analysis concluded.**

Cbeyond Response: Cbeyond does not believe that it has ever engaged in any practice related to consumer internet usage that would implicate consumer privacy laws and, accordingly, has never conducted a legal analysis regarding opt-in / opt-out decisions from consumers.

10. **What is the status of consumer data collected as a result of such practice? Has it been destroyed or is it routinely destroyed?**

Cbeyond Response: With the exception of Cbeyond's use of Google's AdWords service as describe above, Cbeyond has not engaged in any such practice and, accordingly, has never had or retained any related consumer data.

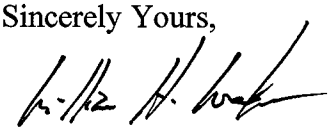
11. **Is it possible for your company to correlate data regarding consumer Internet use across a variety of services or applications you offer to tailor Internet advertising? Do you do so? If not, please indicate what steps you take to make sure such correlation does not happen. If you do engage in such correlation, please provide answers to all the preceding questions with reference to such correlation. If your previous answers already do so, it is sufficient to simply cross-reference those answers.**

Cbeyond Response: Because Cbeyond does not collect any data of any kind regarding consumer Internet use, it is not possible for us to use such data for any purpose at all. Further,

we have chosen not to develop or purchase the technical capability to collect any such data and have no plans to do so in the future.

If you have any questions or wish to speak with me further about this matter, please do not hesitate to contact me.

Sincerely Yours,



William H. Weber

cc: Amy Levine (via fax)
Neil Fried (via fax)
Colin Crowell (via fax)
Mike Mandel (via fax)