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Center for Digital Democracy

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**CDD, U.S. PIRG, Consumer Watchdog, and World Privacy Forum Call on
FTC to Investigate
Interactive Marketing of Pharmaceutical and Health Products and Services to
Consumers and Health Professionals**

**Action Required to Protect Consumers, including their Privacy,
in the Online Health and Medical Marketplace**

FTC Role to Help FDA Address New Threats

Washington, DC: In a complaint filed today with the Federal Trade Commission, the Center for Digital Democracy, U.S. PIRG, Consumer Watchdog, and the World Privacy Forum called on the commission to investigate unfair and deceptive advertising practices that consumers face as they seek health information and services online.

Consumers now confront a sophisticated and largely stealth interactive medical marketing apparatus that has unleashed an arsenal of techniques designed to promote the use of specific brand drugs and influence consumers about treatments for health conditions. Much of the online health marketing system has been deliberately structured to collect personal information and other data on consumers, including through the use of free e-newsletters on specific medical concerns; discounts for prescription drugs and services; and via the growing number of other online data profiling techniques.

Nearly \$1 billion dollars will be spent this year by online health and medical marketers targeting the growing number of U.S. consumers who increasingly rely on the Internet for information about medical problems, treatments, and prescription drugs.

The online marketing health industry has presented to the FDA and the public a fairytale version of digital marketing, where all consumers become empowered “e-patients,” able to form powerful helping communities. But while the online medium provides medical information to those seeking access to resources and support, it has been structured to engage in aggressive tactics that threaten privacy, raise questions about the fair presentation of independent information, and advance the sales of prescription drugs and over-the-counter products. Pharma and other health online marketers are pressing the FDA for new rules that would allow them to

expand digital and social media advertising. Before the FDA acts, it should await an investigation and a report by the FTC.

The detailed 144-page filing identifies a number of interactive techniques that pose threats to consumers:

- The practice of medical “condition targeting,” covering such illnesses as depression, COPD, diabetes, and asthma, based on a person’s use of online health information services and digital behaviors;
- The eavesdropping on online discussions of health consumers via social media data mining, enabling pharmaceutical companies to hone marketing campaigns for drug brands;
- The collection of data on a consumer’s actions related to health concerns via online profiling and behavioral tracking in order to track and target them for medical advertising;
- The use of viral and so-called “word-of-mouth” techniques online to drive interest in prescriptions, over-the counter drugs, and health remedies;
- The use of “unbranded” websites and video channels to promote connections to pharmaceutical brands, which are sponsored by drug companies;
- The lack of clear separation between what is supposed to be editorial content and promotional material by sponsors and advertisers;
- The influencing of subconscious perceptions via pharma-focused “neuromarketing.”

The complaint also asks the FTC to address the impact of “e-detailing,” in which physicians, nurses and other health professionals are the target of highly focused digital marketing campaigns for specific drug brands and treatments. Among the companies named in the complaint are Google, Yahoo, Microsoft, AOL, WebMD, Quality Health, Everyday Health, and Health Central.

“By using powerful digital marketing tools, pharmaceutical and online health information companies now have unprecedented abilities to take advantage of consumers,” explained Jeff Chester, executive director of the Center for Digital Democracy (CDD). “Many of the new interactive marketing techniques have been purposely designed to tap into the concerns and anxieties of individuals who are going online to seek health information. As consumers face growing personal costs for health services, they should not be subject to unfair, deceptive, and non-transparent techniques designed to encourage them to seek out forms of treatment, brand medications or be subject to a high-powered data collection system that undermines their privacy.”

“Patients and other health consumers expect that their privacy will be respected and protected when they go online,” explained Pam Dixon, executive director of the World Privacy Forum. “But increasingly, detailed information about our medical concerns and interests are gathered and compiled, including what marketers now

term the 'online patient journey.' As the country moves to digital medical records, and the largest interactive marketers see online pharma marketing a growing profit center, U.S. health consumer privacy is at further risk."

"The FTC must protect consumers by ensuring that their health and medical data--including their use of online health services -- receives the highest form of privacy safeguards," said Ed Mierzwinski, director, Consumer Program, USPIRG. "No consumer should be forced to confront a vast system of invisible and unaccountable online profiles that label them as someone who has or is concerned about a life threatening disease, serious medical problem, and then be 'condition-targeted' across the Internet and likely off-line as well. We expect that in its forthcoming new privacy report, new and effective safeguards will be proposed by the FTC to protect consumer health and medical privacy online."

"Online health marketers are taking advantage of consumers at time when they are most vulnerable--worried about their own or a loved one's health," said John M. Simpson, a consumer advocate with Consumer Watchdog. "The FTC needs to bring these flagrant abuses to an end."

In its complaint, CDD, U.S. PIRG, Consumer Watchdog and World Privacy Forum called on the FTC to undertake the following actions:

- Examine and analyze the data collection and usage practices of pharmaceutical advertisers, in order to assess the extent of consumer information collected through websites, social networks, online video sites, and other interactive means.
- Require companies engaged in digital marketing of health products to provide information on the kinds of online targeting techniques and methods they employ, especially behavioral advertising and retargeting.
- Conduct a review of the privacy policy pages on health and pharmaceutical websites and services, including the leading social networks promoting health products.
- Analyze how health-related social media marketing influences consumer behavior and attitudes concerning drug use and various medical conditions.
- Investigate whether there is a violation of the FTC's Endorsement guidelines (which have been extended to the Internet) when advice is given to patients or consumers from seemingly independent health bloggers who fail to disclose that they are paid or sponsored by pharmaceutical or other companies.

- Investigate the use of “unbranded” sites funded by pharmaceutical companies, in order to assess whether such sites are structured and designed to support the promotion of specific drugs.
- Conduct an inquiry on the use of neuromarketing-related techniques designed to influence or measure subconscious responses.
- Investigate how TRUSTe evaluates and approves interactive health marketing sites, examining in particular the role of its privacy seal certification procedures.
- Work with the Food and Drug Administration and other appropriate agencies to develop a set of policies for regulating the use of behavioral targeting, data collection, and other digital techniques in the marketing of drugs and health-related products.

The groups’ FTC filing, which was also sent to Dr. Margaret Hamburg of the FDA and members of Congress, is available at <http://www.democraticmedia.org/digital-pharma-marketing-FTC>.

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The Center for Digital Democracy is a nonprofit group working to educate the public about the impact of digital marketing on public health, consumer protection, and privacy. It has played a leading role at the FTC and in Congress to help promote the development of legal safeguards for behavioral targeting and other online data collection practices.

U.S. PIRG serves as the federation of non-profit, non-partisan state Public Interest Research Groups. PIRGs are public interest advocacy organizations that take on powerful interests on behalf of their members. For twenty years, U.S. PIRG has been concerned with privacy and compliance by governments and commercial firms with Fair Information Practices.

Consumer Watchdog, established in 1985, is a nationally recognized non-partisan, non-profit organization with offices in Santa Monica, CA, and Washington, DC, representing the interests of taxpayers and consumers. Its mission is to provide an effective voice for the public interest. Consumer Watchdog’s programs focus on insurance, health care, political reform, and privacy protection.

The World Privacy Forum is a non-profit, non-partisan public interest research and consumer education group. It focuses on a range of privacy matters, including financial, medical, employment, and Internet privacy. The World Privacy Forum was founded in 2003.