

# epic.org

October 20, 2009

VIA CERTIFIED MAIL  
HQ AAFES  
Attn: GC (FOIA)  
P.O. Box 650060  
Dallas, TX 75265-0060

1710 Connecticut Ave NW  
Suite 200  
Washington DC 20009  
USA  
+1 202 483 1140 (tel)  
+1 202 483 1248 (fax)  
www.epic.org

Dear FOIA Officer:

This letter constitutes a request to the Army and Air Force Exchange Service (AAFES) under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center ("EPIC"). EPIC seeks agency records in the possession of AAFES, including the contract(s) between AAFES and Echometrix, Inc. concerning the software program "My Military Sentry," as well as communications between the parties.

## Background

On or about October 13, 2009, Echometrix announced the launch of a parental control software product for military families, called My Military Sentry.<sup>1</sup> Echometrix offers the product through "FamilySafe," an Echometrix subsidiary.<sup>2</sup> My Military Sentry is a computer software product, developed by Echometrix. Echometrix claims that My Military Sentry allows parents to monitor and filter their children's online activity and to obtain real-time alerts when their children encounter dangerous activity in chat rooms, instant message conversations, or on websites.<sup>3</sup>

Echometrix stated that it will "join forces with the Army & Air Force Exchange Service to offer its My Military Sentry program to military personnel and their families around the globe."<sup>4</sup> The company states, "My Military Sentry is now available through the AAFES online

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<sup>1</sup> Press Release, Echometrix, Echometrix's FamilySafe Joins Forces with Army & Air Force Exchange Service (Oct. 30, 2009), <http://www.prnewswire.com/news-releases/echometrixs-familySAFE-joins-forces-with-army--air-force-exchange-service-64089807.html>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* See also Sentry Family Controls, [www.sentryparentalcontrols.com](http://www.sentryparentalcontrols.com).

<sup>4</sup> Press Release, Echometrix, Echometrix's FamilySafe Joins Forces with Army & Air Force Exchange Service (Oct. 30, 2009), <http://www.prnewswire.com/news-releases/echometrixs-familySAFE-joins-forces-with-army--air-force-exchange-service-64089807.html>.

site ([www.aafes.com](http://www.aafes.com)) and at military installations throughout the world.”<sup>5</sup> EPIC seeks disclosure of the contract between AAFES and Echometrix regarding My Military Sentry. EPIC also seeks disclosure of any other agreements or correspondence between AAFES and Echometrix regarding My Military Sentry.

My Military Sentry is substantially similar, and possibly identical, to another Echometrix product – “Sentry Family Protection” – that is offered to civilians. Echometrix’s description of My Military Sentry is virtually the same as the company’s description of Sentry Parental Family Protection.<sup>6</sup> In addition, Echometrix directs users of the My Military Sentry software and the Sentry Family Protection software to the same web site to administer their accounts – [www.sentryparentalcontrols.com](http://www.sentryparentalcontrols.com).<sup>7</sup>

EPIC recently conducted in-depth research regarding Echometrix’s Sentry Family Protection software and a related product offered by Echometrix called PULSE. PULSE is a software engine that reads and analyzes digital content extracted from online conversations, which is then sold to third parties for market-intelligence research purposes.<sup>8</sup> EPIC found that Echometrix is collecting personal information from children through its Sentry Family Protection software, and is subsequently selling this information to third parties through its PULSE program.

On September 25, 2009, EPIC filed a complaint with the Federal Trade Commission (“FTC”), alleging that Echometrix is engaging in unfair and deceptive trade practices, and is acting in violation of the Children’s Online Privacy Protection Act.<sup>9</sup> EPIC alleged that the practice of surreptitiously collecting sensitive information from children and simultaneously disclosing this information to third parties for marketing purposes is unfair because these claims cause a substantial harm, not outweighed by any countervailing benefits, which consumers cannot reasonably avoid. Furthermore, collecting information such as e-mail addresses from children, without verifiable parental consent, violates the Children’s Online Privacy Protection Act. Echometrix’s privacy policies for these products are unclear and do not fully disclose how information, more specifically children’s information, is being collected, used, and disclosed.

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<sup>5</sup> *Id.*

<sup>6</sup> Compare *supra* note 1 and Sentry Family Controls, [www.sentryparentalcontrols.com](http://www.sentryparentalcontrols.com).

<sup>7</sup> See *supra* note 1 (stating “Parents can log on to their child’s account at any time at [www.sentryparentalcontrols.com](http://www.sentryparentalcontrols.com) and monitor what their child has been doing on their computer in real time.”).

<sup>8</sup> Echometrix, <http://echometrix.com/Products/Default.aspx>.

<sup>9</sup> FTC Complaint, <http://epic.org/privacy/ftc/Echometrix%20FTC%20Complaint%20final.pdf>. See also EPIC: Echometrix, <http://epic.org/privacy/echometrix/>.



### Documents Requested

EPIC requests the following agency records (including but not limited to electronic records):

1. all contracts and/or agreements between AAFES and Echometrix regarding My Military Sentry; and
2. all communications and/or correspondence between AAFES and Echometrix regarding My Military Sentry.

### Request for "News Media" Fee Status

EPIC is a non-profit, educational organization that routinely and systematically disseminates information to the public. This is accomplished through several means. First, EPIC maintains a heavily visited website (<http://www.epic.org/>) that highlights the "latest news" concerning privacy and civil liberties issues. The site also features scanned images of documents EPIC obtains under the FOIA. Second, EPIC publishes a bi-weekly electronic newsletter that is distributed to nearly 20,000 readers, many of whom report on technology issues for major news outlets. The newsletter reports on relevant policy developments of a timely nature (hence the bi-weekly publication schedule). It has been published continuously since 1996, and an archive of past issues is available at our website. Finally, EPIC publishes and distributes printed books that address a broad range of privacy, civil liberties and technology issues. A list of EPIC publications is available at our website.

For the foregoing reasons, EPIC clearly fits the definition of "representative of the news media" contained in the FOIA and 6 C.F.R. § 5.11(b)(6). Indeed, the U.S. District Court for the District of Columbia has specifically held that EPIC is "primarily engaged in disseminating information" for the purposes of expedited processing,<sup>10</sup> and is a "representative of the news media" for fee waiver purposes.<sup>11</sup> Based on our status as a "news media" requester, we are entitled to receive the requested records with only duplication fees assessed. Further, because disclosure of this information will "contribute significantly to public understanding of the operations or activities of the government," as described above, any duplication fees should be waived.

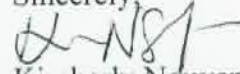
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<sup>10</sup> *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004).

<sup>11</sup> *Electronic Privacy Information Center v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

Thank you for your consideration of this request. As the FOIA and 5 U.S.C. § 552 provide, I will anticipate your determination on our request within twenty (20) working days. Should you have any questions about this request, please feel free to contact me at (202) 483-1140, ext. 123.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Nguyen', with a horizontal line extending to the right.

Kimberly Nguyen

EPIC Consumer Privacy Fellow