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COMMITTEE ON ENERGY AND COMMERCE
ENERGY AND POWER



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April 22, 2011

The Honorable Jon Leibowitz, Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairman Leibowitz:

I am writing to express concern over recent revelations that Apple's iPhone continuously records and archives the location of its users. Two researchers discovered this practice and presented their findings to a conference on location-aware technology on April 20, 2011. I believe this discovery warrants a Commission review of the ubiquity of this type of activity and the methods of disclosure to customers.

Citizens expect to be able to know the extent to which their private information is being collected. In this case, Apple's only apparent disclosure comes buried in the vaguely worded language of a lengthy terms and conditions agreement. Furthermore, agreement on the part of the user is apparently granted simply by "using location-based services on your iPhone." The fact that no iPhone user was aware of this activity until two tech-savvy researchers stumbled upon it illustrates the lack of adequate disclosure. Nor is it clear that the recommended opt-out mechanism (turning off global Location Services) prevents this data collection from continuing. In total, following the purchase of an iPhone, a citizen's movements were tracked, recorded, stored permanently and left unprotected on numerous devices – all without their informed consent. Mobile users deserve better.

The mobile ecosystem continues to offer consumers unprecedented capabilities. Nonetheless, with these powerful tools comes a responsibility to ensure the hundreds of millions of mobile phone users are aware of the types of data collection occurring. It is currently unclear how pervasive this practice is across the wireless device industry and the extent to which it has been disclosed to consumers. I respectfully ask that the Commission carefully investigate this disturbing discovery and determine the size and scope of this activity. As part of this investigation, I encourage the Commission to gain a full understanding of the purpose behind this data collection, the length and extent of this data collection, the method and extent of customer notification, the tools provided to users to prevent this activity and the degree of data protection.

I look forward to the Commission's prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Inslee". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jay Inslee