

ONE HUNDRED TWELFTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

February 28, 2012

Ms. Cella Irvine
Chief Executive Officer
Vibrant Media Inc.
565 5th Avenue, 15th Floor
New York, NY 10017

Dear Ms. Irvine:

Earlier this month, the *Wall Street Journal* revealed that “Google Inc. and other advertising companies have been bypassing the privacy settings of millions of people using Apple Inc.’s [Safari] Web browser . . . tracking the Web-browsing habits of people who intended for that kind of monitoring to be blocked.”¹

Google immediately responded to the revelation, explaining that it used a widely known weakness in Safari’s third-party cookie blocking policy to enable placement of its ‘+1’ button on ads delivered to signed-in Google users who had opted into personalization features.² Google also agreed to brief congressional staff on the matter, and did so yesterday, providing additional details and answering questions for House Energy and Commerce Committee staff that reconfirmed this explanation.

According to the *Wall Street Journal*, your company, Vibrant Media, also engaged in similar practices.³ You have not, however, clearly and thoroughly explained why you delivered code to consumers’ devices to get around Safari’s default blocking of third-party tracking cookies.

Unlike Google, your company is far from a household name, so its impact and reach remains invisible to most Americans. But you claim your company is a world leader in

¹ Julia Angwin and Jennifer Valentino-Devries, *Google’s iPhone Tracking*, *The Wall Street Journal* (Feb. 17, 2012).

² Google Press Statement (Feb. 17, 2012).

³ Angwin and Valentino-Devries, *Google’s iPhone Tracking*.

advertising that gives marketers the ability to “deliver highly targeted advertisements” that reach “over 250 million unique users per month.”⁴

To help us understand your actions, we request that you respond to the following questions:

- (1) Please clearly and thoroughly explain why you used code designed to circumvent Safari’s blocking of third-party tracking cookies and placed such cookies on the devices of Safari users.
- (2) When did you start using code designed to circumvent Safari’s blocking of third-party tracking cookies and when did you end this practice?
- (3) Please list all categories of user and device information collected by and inferred from the tracking cookie (or cookies) you set after circumventing Safari’s third-party tracking cookie blocking and the purposes for which you used that information?
- (4) How long a period of time was your tracking cookie (or cookies) programmed to collect information about users’ activity before it expired?
- (5) How long did you or do you store information collected by your tracking cookie (or cookies)?
- (6) Regardless of the browser, do you use any other techniques to track user or device information – including, but not limited to, beacons, device fingerprinting, or flash cookies? If so, please identify all techniques used and for each: (a) list all categories of user and device information collected by and inferred from the technique; (b) the purposes for which you use that information; (c) provide the period of time the technique is designed or programmed to collect information about users’ activity before it expires; and (d) provide the period of time that you store the information collected.
- (7) Have you ever used code designed to circumvent the blocking by any other browser of third-party tracking cookies?
- (8) What are your policies regarding sharing of any information collected through any of the online tracking techniques you use?

⁴ Vibrant Media Inc., *About Vibrant* (available at www.vibrantmedia.com/about/index.asp).

- (9) Please describe all notices given to users about your collection and use practices and the manner in which they are delivered.
- (10) Please list all industry self-regulatory organizations to which you belong. Also, please explain whether you believe your actions to circumvent Safari's third-party tracking cookie blocking are in compliance with each organization's code of conduct.

Other companies mentioned in the *Wall Street Journal* article as circumventing the Safari privacy protections are Media Innovation Group and PointRoll.⁵ Media Innovation Group is a digital advertising strategy firm that analyzes the effectiveness of advertising campaigns "that reach hundreds of millions of unique users per month."⁶ PointRoll, a digital marketing services company, claims to power "55% of all rich media campaigns online" and serves "over 450 billion impressions for more than two-thirds of the Fortune 500 brands."⁷ We are also writing to them to request similar information.

Please provide the information requested in writing no later than March 13, 2012. If you have any questions regarding this request, contact Felipe Mendoza with the Energy and Commerce Committee Staff at 202-226-3400.

Sincerely,



Henry A. Waxman
Ranking Member



G. K. Butterfield
Ranking Member
Subcommittee on Commerce,
Manufacturing, and Trade

⁵ Media Innovation Group is a subsidiary of WPP PLC, the largest communications services firm in the world. WPP has 2,400 offices in 107 countries, including 154 offices in the U.S. Some of its U.S. companies include 24/7 Real Media, Hill+Knowlton Strategies, and the Ogilvy family of advertising, public relations, and public affairs firms. WPP, *Who We Are* (available at www.wpp.com/wpp/about/whoweare/); WPP, *Agency Finder* (available at www.wpp.com/wpp/companies/companyresults.htm). PointRoll is part of Gannett, a media and marketing company that "reaches millions of people every day" through its "digital, mobile broadcast and print media" properties. Gannett Co., *Who We Are* (available at www.gannett.com/section/WHOWEARE&template=cover).

⁶ Jonathan Mayer, *Safari Trackers*, Web Policy (Feb. 17, 2012) (available at www.webpolicy.org/2012/02/17/safari-trackers/).

⁷ PointRoll, *About Us* (available at www.pointroll.com).

Ms. Cella Irvine
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cc: The Honorable Jon Leibowitz
Chairman, Federal Trade Commission

Marc Groman
Executive Director & General Counsel, Network Advertising Initiative