
U.S. Federal Trade Commission Combating Spyware

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FTC At A Glance

- Small Agency with a Broad Mandate
 - Dual Missions: Consumer Protection and Competition
 - 3 goals of Consumer Protection Mission:
 - Identify fraud and deception
 - Bring civil cases
 - Educate consumers and businesses
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FTC Approach to Technology Issues

- Research and Development
 - Law Enforcement
 - Consumer and Business Education
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FTC Approach to Spyware

- Research and Development:
 - Spyware Workshop
 - Spyware Workshop Report
 - Law Enforcement
 - Four civil cases since October 2004
 - Key Principles: Notice and Harm
 - Consumer and Business Education and Outreach
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Research and Development: Spyware Workshop

- Spyware Workshop (April 2004)
 - www.ftc.gov/bcp/workshops/spyware/index.htm
 - 6 panels with 34 representatives from all sectors
 - Nearly 800 comments received and reviewed
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Research and Development Spyware Workshop Report

- Spyware Workshop Report (March 2005)
 - www.ftc.gov/os/2005/03/050307spywarerpt.pdf
 - Report summarizes workshop proceedings and addresses key issues
 - Report offers recommendations for government and private industry
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Spyware Workshop Report Recommendations for Industry

- Continue to develop and deploy improved technologies to combat spyware
 - Develop industry standards for defining spyware and disclosing information
 - Expand consumer education efforts
 - Assist in law enforcement
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Spyware Workshop Report: Recommendations for Government

- Increase prosecution under current laws; no new laws recommended
 - Increase consumer education efforts
 - Encourage industry efforts, including technological solutions
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Spyware Workshop Report: Key Issues

- How is the software distributed (is there adequate *notice and consent*)?
 - Does the software cause real and serious *harm to consumers*?
 - Spyware encompasses *malware* and may also encompass *adware* depending on the circumstances.
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Drive-By Downloads: *FTC v. Seismic Entertainment Products*

- Defendants exploited a known vulnerability in IE (Internet Explorer) web browser to:
 - change computers' browser home pages to different web pages
 - replace the web browser's default search engine
 - Silently download spyware
 - Defendants also sent pop-up ads promoting "anti-spyware" software to consumers on whose computers they loaded spyware at the cost of \$30 US.
 - Press Release: www.ftc.gov/opa/2004/10/spyware.htm
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Spyware Removal Products: *SpyKiller* and *Spyware Assassin* cases

- The FTC has brought actions against two companies for allegedly marketing spyware removal products by falsely stating that they had remotely scanned consumers computers and found spyware.
 - *SpyKiller* www.ftc.gov/opa/2005/06/trustsoft.htm
 - *Spyware Assassin*
www.ftc.gov/opa/2005/03/maxtheater.htm
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Deception about Nature of Software Downloaded: *Spyblast* Adware Case

- Businesses may not misrepresent the effects of the software or bundle additional software without disclosing to consumers the effects of that software.
 - *Spyblast* software allegedly bundled with adware that collected information about consumers, including the URLs of pages they visited, that was used to send advertisements.
 - Advertising.com www.ftc.gov/opa/2005/08/spyblast.htm
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FTC Approach to Spyware: Consumer Education

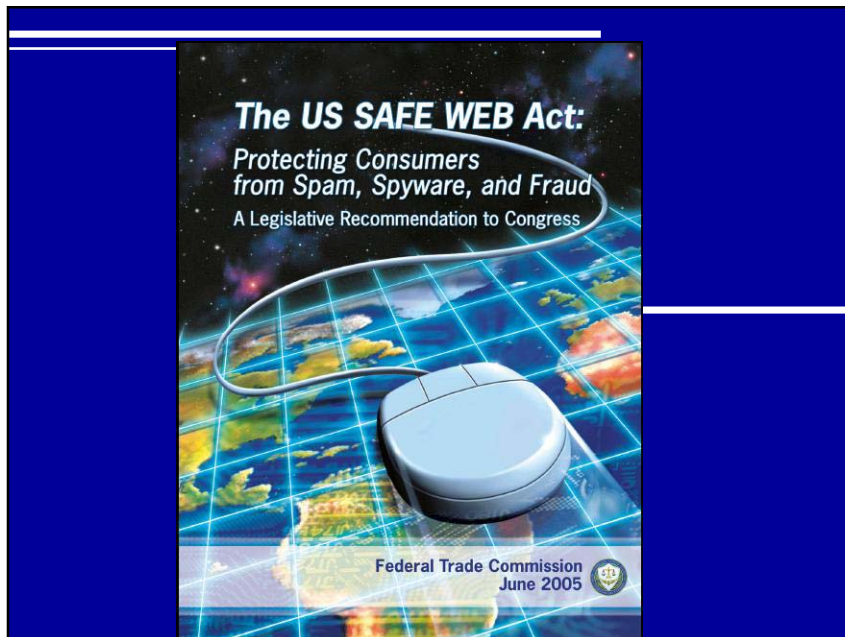
- Ongoing Information Security Campaign

www.ftc.gov/privacy/privacyinitiatives/promises_educ.html

www.ftc.gov/bcp/online/edcams/infosecurity/index.html

Looking Ahead

- Spyware as a Concept, not a Definition
 - Technology's Role
 - Continued Law Enforcement, including attacking practices that hinder uninstallation of software.
 - Information Sharing Between Authorities
 - International Consumer Protection Enforcement Network.
www.econsumer.gov
 - US Safe Web Act
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How the US SAFE WEB Act Would Help Spyware Enforcement

- **The Scenario:**
 - FTC shuts down spyware operator in the U.S.
 - Spyware operator has an affiliate in APEC member economy that continues to put spyware on consumers' computers all over the world.
- **The Problem:**
 - APEC member economy asks FTC for:
 - investigative information
 - testimony of the U.S.-based entity
 - FTC cannot provide this assistance – there is no mechanism in place.
- **The US SAFE WEB Act contains provisions that:**
 - Authorize the FTC to share investigative information with foreign counterparts
 - Authorize the FTC to provide investigative assistance in the form of taking testimony or obtaining documents on behalf of a foreign counterpart.

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