



center for digital democracy

1621 Connecticut Ave., NW, Suite 550, Washington, D.C. 20009

July 30, 2012

Clerk of the United States District Court for the Northern District of California
San Francisco Courthouse, Courtroom 3 - 17th Floor
450 Golden Gate Avenue, San Francisco, CA 94102
Attention: The Honorable Richard Seeborg

Re: Fraley v. Facebook Proposed Settlement
3:11-cv-01726-RS

FILED
AUG X 2 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Dear Judge Seeborg:

The Center for Digital Democracy ("CDD") respectfully opposes the proposed settlement agreement on the grounds that it provides inadequate injunctive relief to the class members. The proposed settlement fails to ensure that Facebook users will be protected from unfair practices related to "*Sponsored Stories*," including their loss of control of their personal information. The proposed settlement is based on a flawed and widely discredited concept—"Notice and Consent"—that has been criticized by the Federal Trade Commission (FTC) and other expert agencies. The proposed settlement also does not provide adolescents—or their parents—meaningful safeguards over how *Sponsored Stories* and related Facebook advertising and marketing products operate. The recent expansion of *Sponsored Stories* on Facebook's mobile platform, given that medium's limitations to protect consumer privacy, is a major concern that also should be addressed by any settlement.¹

CDD is a nonprofit organization based in Washington, DC, that is widely recognized for its work protecting consumers, especially young people, from unfair and deceptive practices related to their privacy, health, and welfare. It led the campaign that resulted in the enactment of the Children's Online Privacy Protection Act in 1998. Since 2007, CDD has been working to protect the privacy of Facebook users in connection with that network's data collection and social media marketing practices. Recently, CDD work to protect adolescent privacy online led to new calls for teen privacy safeguard by the Federal Trade Commission and the White House.²

¹ "Facebook Allows "Sponsored Story" Ads To Targeted To Mobile Specific Users," 5 June
² See, for example, Jeff Chester, "Facebook's chief revenue officer's pitch to advertisers: We've created 'the most sophisticated and accurate targeting system available on the web today,'" <http://centerfordigitaldemocracy.org/jcblog/?cat=53&paged=9>; Wendy Davis, "Privacy Groups Ready FTC Complaint Against Facebook," Online Media Daily, 28 Nov. 2007,

CDD Letter
Fraley v. Facebook proposed settlement

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The Honorable Richard Seeborg
30 July 2012

I. The Proposed Injunctive Relief is Inadequate

The proposed settlement fails to protect Facebook users—and fails to protect the class—by not ensuring that they are given meaningful control over *Sponsored Stories*. First, we are dismayed that the proposed settlement primarily relies on the concept of Notice and Consent. The proposed revision of Facebook terms in its “Statement of Rights and Responsibilities” assumes that by providing additional information to users they will have a better understanding of the issues and risks—and then can make meaningful personal decisions. However, as the FTC explained in its February 2012 report on online privacy, “The ‘notice-and-choice model,’ which encouraged companies to develop privacy policies describing their information collection and use practices, led to long, incomprehensible privacy policies that consumers typically do not read, let alone understand.”³ Research from leading computer science scholars

<http://www.mediapost.com/publications/article/71666/privacy-groups-ready-ftc-complaint-against-faceboo.html>; Electronic Privacy Information Center, et al, “In the Matter of Facebook, Inc., Complaint, Request for Investigation, Injunction, and Other Relief,” Federal Trade Commission filing, 5 May 2010, <http://www.scribd.com/doc/48994147/Epic-FTC-Facebook-Complaint>; “Groups: Facebook Space for Pre-teens Must Protect Privacy, Be Ad-free & Marketing Free,” 18 June 2012, <http://www.centerfordigitaldemocracy.org/groups-facebook-space-pre-teens-must-protect-privacy-be-ad-free-marketing-free>; Center for Digital Democracy, “Interactive Food & Beverage Marketing: Targeting Children and Youth in the Digital Age—Reports,” <http://digitalads.org/reports.php>; Center for Digital Democracy, “Youth Digital Marketing,” <http://www.centerfordigitaldemocracy.org/youth-digital-marketing>; Center for Digital Democracy, U.S. PIRG, Consumer Watchdog, and World Privacy Forum, “In the Matter of Online Health and Pharmaceutical Marketing that Threatens Consumer Privacy and Engages in Unfair and Deceptive Practices. Complaint, Request for Investigation, Public Disclosure, Injunction, and Other Relief: Google, Microsoft, QualityHealth, WebMD, Yahoo, AOL, HealthCentral, Healthline, Everyday Health, and Others Named Below,” Federal Trade Commission Filing, 23 November 2010, <http://www.democraticmedia.org/sites/default/files/2010-11-19-FTC-Pharma-Filing.pdf>; “Health Groups: FTC & State AGs Must Investigate Online Marketing of Alcohol Products & Impact on Youth,” 18 May 2010, <http://www.centerfordigitaldemocracy.org/health-groups-ftc-state-ags-must-investigate-online-marketing-alcohol-products-impact-youth>. (all viewed 9 July 2012). CDD was then operating as the Center for Media Education. COPPA, <http://searchcrm.techtarget.com/definition/COPPA>; “Obama Administration Calls for A Consumer Privacy Bill of Rights,” 23 February 2012. <http://www.whitehouse.gov/blog/2012/02/23/we-can-t-wait-obama-administration-calls-consumer-privacy-bill-rights-digital-age>; “FTC Issues Final Commission Report on Protecting Consumer Privacy,” 26 March 2012, <http://www.ftc.gov/opa/2012/03/privacyframework.shtm> (all viewed 30 July 2012)

³ Federal Trade Commission, “Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers,” Mar. 2012, p. 2, <http://www.ftc.gov/os/2012/03/120326privacyreport.pdf> (viewed 9 July 2012). The report called for new approaches to protecting consumer privacy online.

has repeatedly shown that privacy policies based on the “notice-and-choice” model are ineffective.⁴ The FTC also cited the inconsistencies and misleading information in Facebook’s privacy policies as the basis of its November 2011 20-year pending Consent Agreement.⁵

The proposed revision for inclusion in Facebook’s Statement of Rights and Responsibilities, providing some additional details related to *Sponsored Stories*, will not protect users. The Facebook’s Statement page exemplifies a form of “digital fine print” that is complex, often obtuse, and fails to be transparent about Facebook’s actual practices.⁶ If providing more information alone was sufficient to protecting consumer privacy online, especially teens, it is doubtful that there would be the need for further safeguards, such as what the FTC and other policymakers have recently called for.⁷

Even if privacy policies based on the notice-and-consent approach, such as the suggested changes to Facebook’s Statement at 10.1, helped users better understand and control how their data are collected and used, the proposed settlement inadequately addresses the issues raised by *Sponsored Stories*. One of the most problematic issues with the proposed settlement is that it does not address actual

⁴ See, for example, Aleecia M. McDonald and Lorrie Faith Cranor, “The Cost of Reading Privacy Policies,” <http://www.cylab.cmu.edu/files/pdfs/news/CostofReading.PDF>. See also, generally, the related work of Prof. Lorrie Cranor, <http://www.cylab.cmu.edu/education/faculty/cranor.html> (both viewed 9 July 2012).

⁵ For example, the FTC noted in announcing the settlement that “Facebook represented that third-party apps that users’ installed would have access only to user information that they needed to operate. In fact, the apps could access nearly all of users’ personal data—data the apps didn’t need; Facebook promised users that it would not share their personal information with advertisers. It did.... Facebook claimed that when users deactivated or deleted their accounts, their photos and videos would be inaccessible. But Facebook allowed access to the content, even after users had deactivated or deleted their accounts.” Federal Trade Commission, “Facebook Settles FTC Charges That It Deceived Consumers By Failing To Keep Privacy Promises,” 29 Nov. 2011, <http://ftc.gov/opa/2011/11/privacysettlement.shtm> (viewed 9 July 2012).

⁶ For example, in its “Amendment” section, Facebook makes the following statement: “For changes to sections 7, 8, 9, and 11 (sections relating to payments, application developers, website operators, and advertisers), we will give you a minimum of three days notice. For all other changes we will give you a minimum of seven days notice. Comments to proposed changes will be made on the Facebook Site Governance Page.” Facebook, “Statement of Rights and Responsibilities,” last revised 8 June 2012, <http://www.facebook.com/legal/terms>. See also Tom Espiner, “Irish Watchdog: Facebook Privacy Still Falls Short,” ZDNet, 14 May 2012, <http://www.zdnet.com/irish-watchdog-facebook-privacy-still-falls-short-3040155218/> (both viewed 9 July 2012).

⁷ See, for example, the proposed bipartisan legislation to protect the online privacy of children and also adolescents. “Markey, Barton introduce anti-children’s data collection bill in House,” 13 May 2011, <http://www.dmnews.com/markey-barton-introduce-anti-childrens-data-collection-bill-in-house/article/202812/> (viewed 30 July 2012)

Facebook advertising and marketing practices. *Sponsored Stories* is an integrated part of a much larger social media marketing system operating on the Facebook platform. Marketing and advertising practices on Facebook are linked and facilitated by a wide range of purposeful “viral” techniques designed to have one’s friends promote products and services.⁸ As *Inside Facebook* explains, “Sponsored Stories co-opt a users actions, voice, and identity to create ads that resonate with friends.”⁹ Even with further disclosure, teens and parents would not likely understand Facebook’s use of tracking tags for *Sponsored Stories* and the collection practices used.¹⁰ In addition to understanding how a Sponsored Stories post is placed for maximum affect and its use as a viral marketing application, we believe parents and adolescents should also know and control the range of data collection practices tied to it. For example, Facebook’s new “Actions metric” used by *Sponsored Stories* enables marketers to “track a much more robust set of measurements,” including “viewed the Page post photo, viewed the Page post video, shared your Page posts, answered your question, claimed your offer,” etc.¹¹

As Facebook explains to potential advertisers, there are a variety of methods that can be used to implement a *Sponsored Story*, including from “Page posts.” Any settlement would have to ensure that Facebook users, especially adolescents, understand and control the various strategies deployed. They would to know, at the very least, how Facebook operationalizes Sponsored Stories to ensure it receives favorable results.

For example, in its recent guide to “Premium and Marketplace Products,” Facebook explains that

Your stories are most effective when they start from Page posts. Premium ads

⁸ “Sponsored Stories allows advertisers to augment viral buzz by giving greater distribution and visibility to posts that endorse their organization or business.” “Sponsored Stories Introduction,” 10 February 2012, <http://gold.insidenetwork.com/facebook-marketing-bible/category/facebook-ads/ad-types/sponsored-stories/> (subscription access only. Viewed 30 July 2012).

⁹ The report goes on to explain that sponsored stories relies on friends to do the marketing, explaining that “Seeing that a friend has checked in at Starbucks is a much more compelling reason to visit than a standard advertisement telling a user to go get a coffee.” “Sponsored Stories Introduction,” 10, February, 2012. http://gold.insidenetwork.com/facebook-marketing-bible/fmb_summary/sponsored-stories-introduction/ (subscription access only. Viewed 30 July 2012).

¹⁰ “Facebook Now Allows Advertisers to Use Tracking Tags and Promote Old Page Posts with Sponsored Stories,” 26 September 2011, <http://www.insidefacebook.com/2011/09/26/sponsored-stories-tracking-tags-page-post-selection/>. (Viewed 30 July 2012).

¹¹ “Measuring Success with Ads Manager,” 2012. Available for download via, <http://blog.grapheffect.com/newsroom/bid/155758/Coverage-Measuring-Success-With-Ads-Manager>. Also see, “Introduction to Action Spec,” Facebook, <http://developers.facebook.com/docs/reference/ads-api/intro-action-specs/> (Viewed 30 July 2012).

and sponsored stories from Page posts put your Page's voice in the most prominent placements on Facebook, on the homepage. A user not connected to your business will see an ad, which appears on the right-hand side of their homepage and gives them the option to like your page. Fans of your business or their friends see a sponsored story, which appears either on the right-hand side or in the news feed (on both desktop and mobile) and gives them the option to like the Page (if they are a friend of a fan) or like and comment (if they're a fan) on the Page post. When they appear on the right hand side, sponsored stories expand to show a friend's profile photo and names of friends connected to your brand alongside your message, all in one. This social context appears at no additional cost to you.¹²

In another *Sponsored Stories* marketing approach, Facebook offers what it calls "Premium sponsored stories (voice of friend)." It explains that

Premium sponsored stories also include stories shown to users about their friend's interaction with your brand on Facebook. These "voice of friend" sponsored stories also put your brand in the most prominent placements on Facebook, on the right-hand side of the homepage or in news feed (on both desktop and mobile). These stories always show the friend's profile photo and name.¹³

Any settlement would also have to ensure that Facebook users understood and can control the range of "*Sponsored Stories*" connected tools as its new "Reach Generator" service. As it explains, "Right now you may only reach 16% of your fans each week. Reach Generator guarantees that you reach 75% of your fans each month and an estimated 50% of fans each week in a simple, always-on way. Fans will see your message as a sponsored story on the right-hand side of their homepage or in their news feed on desktop or mobile.¹⁴

¹² Facebook, "Premium and Marketplace Products: Specifications and Best Use Cases," p. 2, <http://www.scribd.com/doc/86100099/Premium-and-Marketplace-Products> (viewed 9 July 2012).

¹³ Facebook, "Premium and Marketplace Products: Specifications and Best Use Cases," p. 4.

¹⁴ Facebook, "Reach Generator," <http://www.facebook.com/business/fmc/guides/reach>, emphasis added. See also, for example, a number of Facebook-produced guides that explain the relationship of Sponsored Stories with other social and premium advertising products: "Measuring Success on Facebook," http://www.facebook.com/business/fmc/guides/measurement?campaign_id=250393211715997&creative=measure; "Guide to the New Facebook Ads Manager," http://ads.ak.facebook.com/ads/FacebookAds/TheNewAdsManager_May2011v2.pdf; "Premium on Facebook," http://www.facebook.com/business/fmc/guides/premium?campaign_id=250393211715997&creative=premium. For a discussion on the impact of Facebook's new "Timeline" product, see Edwin Philogene, "Facebook's Timeline Era," Digital Lab Blog, 23 Mar. 2012, <http://digitallabblog.com/digital-lab-blog/facebook-timeline-era/> (all viewed 9 July 2012).

As widely reported, Facebook is focused on expanding its mobile marketing capabilities—including using *Sponsored Stories* on the mobile phone. The “real estate” and construction of a consumer’s mobile experience raises a number of additional concerns that any settlement must address.¹⁵ Recent research illustrates that mobile *Sponsored Stories* ads tend to generate significant consumer response, suggesting that “Facebook users perceive mobile ads as content, rather than advertising. They are clicking...because they closely resemble content that their friends interact with and share.”¹⁶

Finally, for the sake of brevity, we merely want to underscore that Facebook operates a complex and poorly understood social media marketing system. While social media operates at a surface level serving the interests of its users and their networks through information dissemination (posts, newsfeeds, etc.), a complex marketing and data collection apparatus operates underneath, working to help “curate” the identity of its users.¹⁷ As the CEO of the world’s largest advertising company, WPP, recently explained, Facebook is primarily a marketing and branding system—not merely one where ads are the primary method of targeting consumers.¹⁸ A settlement would have to take a reasonable, but comprehensive, approach to ensuring that Facebook users could control the Sponsored Story process, and address the viral marketing infrastructure that promotes the *Sponsored Stories* system.¹⁹ It requires more than “Notice” of new terms on Facebook’s website, as the proposed settlement requires. It should enable a user to have both knowledge and meaningful control of the social

¹⁵ The FTC, for example, recently held a workshop on the “need for new guidance concerning advertising and privacy disclosures in today’s online and mobile environments.” “FTC Announces Final Agenda and Panelists for Workshop about Advertising and Privacy Disclosures in Online and Mobile Media” 28 May 2012, http://ftc.gov/opa/2012/05/dotcomdiscl_ma.shtm (Viewed 30 July 2012).

¹⁶ “AdParlor Special Report: The State of Facebook Mobile Advertising, 24 July 2012, <http://www.adparlor.com/>.

¹⁷ As Facebook explains to marketers and developers, products should be created based on social design principles, one of which it calls “Curating Identity: Users share and interact with others because self expression feels good and rewarding. Help them learn more about themselves and curate their identity.” Facebook, “Social Design,” <http://developers.facebook.com/socialdesign/> (viewed 9 July 2012).

¹⁸ Mark Sweney, “Sir Martin Sorrell Unconvinced that Facebook is a Good Advertising Medium,” *The Guardian*, 21 June 2012, <http://www.guardian.co.uk/media/2012/jun/21/martin-sorrell-unconvinced-facebook-advertising> (viewed 9 July 2012).

¹⁹ See, for example, “Buddy Media Presents: The Branded Viral Loop,” YouTube, 20 May 2010, <http://www.youtube.com/watch?v=leLyTKwNELE>; Kissmetrics, “Tracking Facebook Virality,” <http://support.kissmetrics.com/advanced/tracking-facebook-virality> (both viewed 9 July 2012).

platform's basic marketing building blocks. *Sponsored Stories* should be an opt-in system under any settlement that purports to benefit the class.²⁰

Facebook also has a poor track record of providing "mechanisms" giving its members control over their data, as the FTC proposed settlement and other well-known cases demonstrate.²¹ The social network's recent move changing the email settings of users is an example of the kind of preemptive decision-making the platform often engages in, without considering privacy and consumer-protection implications.²² In order to ensure the developments of a meaningful system to control *Sponsored Stories* in an effective manner, a proposed settlement should require independent testing—using the same kinds of techniques Facebook and its marketers use when developing advertising campaigns.²³

As one of the country's leading groups working to protect the privacy of both children and adolescents, we also are dismayed by the proposed settlement's inadequate approaches to protecting youth. As both the Obama Administration and the Federal Trade Commission noted in their new respective reports on consumer privacy, adolescents require a higher standard of protection for their data.²⁴ Recent

²⁰ There are many guides and sites that can help one understand how Facebook actually operates: Econsultancy, "Social Media Management Systems Buyer's Guide," Oct. 2011, <http://econsultancy.com/us/reports/social-media-management-systems-buyers-guide/>; "Facebook Marketing Bible," <http://gold.insidenetwork.com/facebook-marketing-bible/>; Facebook, "Preferred Marketing Developer Program," <http://developers.facebook.com/preferredmarketingdevelopers/> (all viewed 9 July 2012).

²¹ Dan Tynan, "Facebook's New Privacy Controls: Still Broken," IT World, 29 Aug. 2011, <http://www.itworld.com/it-managementstrategy/198069/facebooks-new-privacy-controls-still-broken/>; "Facebook & Your Privacy," *Consumer Reports*, June 2012, <http://www.consumerreports.org/cro/magazine/2012/06/facebook-your-privacy/index.htm>; Eileen Brown, "Facebook Timeline Privacy Concerns Deepen as Rollout Begins," ZDNet, 19 Dec. 2011, <http://www.zdnet.com/blog/feeds/facebook-timeline-privacy-concerns-deepen-as-rollout-begins/4424> (all viewed 9 July 2012).

²² Christina Bonnington, "Facebook's Email Overhaul Is Seizing Smartphone Contact Lists, Reports Say," *Wired*, 2 July 2012, <http://www.wired.com/gadgetlab/2012/07/facebook-email-woes/> (viewed 9 July 2012).

²³ See, for example, Facebook, "A/B Testing your Facebook Ads," Sept. 2010, http://ads.ak.facebook.com/ads/FacebookAds/FB_Ads_A_B_Testing.pdf; Sarah Kessler, "Facebook Timeline Changed the Way We See Brand Pages; Here's How," Mashable, 30 Apr. 2012, <http://mashable.com/2012/04/30/facebook-timeline-eyetrack-study/>; "2012 Beverages + Alcohol Gold Winner: 'Happiness Machine' The Coca-Cola Company," YouTube, 22 Feb. 2012, <http://www.youtube.com/watch?v=CYcP1iDQB2Y> (viewed 9 July 2012).

²⁴ The White House, "Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy," Feb. 2012, <http://www.whitehouse.gov/sites/default/files/privacy-final.pdf>; Federal Trade Commission, "Protecting Consumer Privacy in an Era of Rapid Change: Recommendations for Businesses and Policymakers."

research into adolescent cognitive development underscore the limits in a teen's ability to regulate emotional responses, deploy impulse control, and manage peer influence and the need for immediate gratification. The marked vulnerability of adolescents to emotional stress or excitement, and their biological need for social connectivity, are key factors that make this group both a target for digital marketing initiatives on social media and a cause for concern by health experts.²⁵ Teens are especially avid users of both social media and mobile services. Seventy-three percent of online youth between the ages of 12 and 17 use social networking sites, and over 65 percent of them are connecting through their mobile phones. Teens "out-text" any other demographic (3,364 mobile texts a month) and are "more receptive to mobile advertising than their elders."²⁶ Marketers target teens on Facebook through a myriad of approaches, including through peer-to-peer marketing, contests, music downloads, and the like.²⁷

Questions about the propriety of even using *Sponsored Stories* to target teens should be raised in any serious proposed settlement. But the current proposed remedy as it relates to teens is inadequate. Parents will not have the information they require to make reasonable consent decisions, as we have discussed. Facebook's "Family Safety Center" fails to provide information on its actual advertising and marketing programs, such as *Sponsored Stories*. Indeed, recent Facebook-sponsored research, which demonstrates how its marketing system more effectively impacts the subconscious and emotional processes of consumers, illustrates why any settlement

²⁵ See, for example, Institute of Medicine Board on Children, Youth and Families, *The Science of Adolescent Risk-taking: Workshop Report* (Washington, DC: National Academies Press, 2011); Laurence Steinberg, "Risk Taking in Adolescence: New Perspectives From Brain and Behavioral Science," *Current Directions in Psychological Science* 16, n. 2 (2007): 55-59; Kathryn C. Montgomery and Jeff Chester, "Interactive Food and Beverage Marketing: Targeting Adolescents in the Digital Age," *Journal of Adolescent Health* 45, n. 3 (Supplement, Sept. 2009): S18-S29, <http://www.jahonline.org/article/S1054-139X%2809%2900149-9/abstract> (viewed 9 July 2012).

²⁶ Amanda Lenhart, Kristen Purcell, Aaron Smith, and Kathryn Zickuhr, "Social Media and Young Adults," Pew Internet & American Life Project, 3 Feb. 2010, <http://www.pewinternet.org/Reports/2010/Social-Media-and-Young-Adults.aspx>; Amanda Lenhart, "Teens, Smartphones & Texting," Pew Internet & American Life Project, 19 Mar. 2012, http://pewinternet.org/~media//Files/Reports/2012/PIP_Teens_Smartphones_and_Texting.pdf; Ipsos, "One Quarter (27%) Of American Teens Use Facebook Continuously Throughout the Day," 5 Jan. 2011, <http://www.ipsos-na.com/news-polls/pressrelease.aspx?id=5095> (Viewed 27 July 2012).

²⁷ CDD works to address unfair digital marketing practices targeting adolescents, especially from products linked to the youth obesity crisis. It edits the digitalads.org site, which tracks and analyzes developments in this area. For examples of Facebook marketing to youth, see "Interactive Food & Beverage Marketing: Targeting Children and Youth in the Digital Age—Updates," <http://digitalads.org/updates.php> (viewed 9 July 2012).

must be fashioned around what is actually known about how Facebook operates and influences its members with such products as *Sponsored Stories*.²⁸

This proposed settlement does not provide the types of information, analysis, and tools that parents need to make informed decisions regarding Facebook marketing practices involving *Sponsored Stories*. A settlement should reflect what Facebook actually requires from marketing specialists to be certified as a “preferred developer” to work on *Sponsored Stories* and other advertising products.²⁹ We also question the \$103.2 million valuation of the settlement as suggested. As we have explained, *Sponsored Stories* is part of a much larger advertising and marketing system. Any valuation should be based on a thorough analysis of Facebook’s marketing system, as outlined in its recent Initial Public Offering, as well as its current shareholder value.³⁰ We also note that the economist used by the proposed settlement firm is involved in representing online advertising technologies—suggesting the need for an assessment from independent experts knowledgeable in social media marketing.³¹

The Proposed Settlement Raises Questions About Whether the Class will be Served by Proposed Cy Pres Recipients

Facebook should not be able to participate in the naming of possible Cy Pres recipients, as the proposed settlement suggests. Rather the settlement should be structured to ensure that those named are independent of Facebook, and have and will serve the class interests. We do not believe that any nonprofit group currently receiving funding from Facebook—or working in some official capacity with them—should be on such a Cy Pres list if the class is genuinely to be served. For example,

²⁸ NeuroFocus and Facebook, “The Premium Experience: Neurological Engagement on Premium Websites,” 2011, <http://www.slideshare.net/jaweemetz/facebook-neurofocus-whitepaper-consumer-engagement-on-premium-web-sites> (viewed 9 July 2012).

²⁹ Facebook, “Preferred Marketing Developer Program: How to Get the Badge,” http://developers.facebook.com/preferredmarketingdevelopers/get_badge/. See also the video on *Sponsored Stories* that Facebook produced, <http://www.facebook-studio.com/lab/video/8> (both viewed 9 July 2012).

³⁰ Even with the current downturn in Facebook’s share price, social media advertising is a growing market, with revenues expected to reach \$4.8 billion this year and “more than double by 2016. “US social media ad spend to more than double by 2016,” <http://www.marketingcharts.com/direct/us-social-media-ad-spend-to-more-than-double-by-2016-22091/> (viewed 30 July 2012).

³¹ Facebook, “Form S-1 Registration Statement,” Securities and Exchange Commission filing, 1 Feb. 2012, <http://sec.gov/Archives/edgar/data/1326801/000119312512034517/d287954ds1.htm>; “Can Facebook Dominate In Ad Revenues?” Seeking Alpha, 9 July 2012, <http://seekingalpha.com/article/709111-can-facebook-dominate-in-ad-revenues>; IPmetrics, “The Market for ViralSmart,” <http://ipmetrics.net/the-market-for-viral-smart.html>; IPmetrics, “Fernando Torres, MSc,” <http://ipmetrics.net/Fernando-Torres.html> (all viewed 9 July 2012).

Connect Safely receives financial support from Facebook.³² Wired Safety's head has been advising Facebook since 2005.³³ The Center for Democracy and Technology has received multiple donations from Facebook at its annual fundraiser, one featuring Facebook's COO as the keynote speaker.³⁴

Conclusion

For the above reasons, CDD urges you to ensure that the class is afforded adequate relief by rejecting the proposed settlement. Facebook's Sponsored Stories users should be provide dwith reasonable safeguards to protect their own and their children's privacy.

Respectfully,



Jeff Chester, MSW
Executive Director
Center for Digital Democracy

³² Connect Safely, "Supporters," http://www.connectsafely.org/our_supporters (viewed 9 July 2012).

³³ "Parry's Aftab's Bio and CV," <http://aftab.com/index.php?page=bio-cv-s>; 'Parry Aftab, Esq.'" Wired Safety, <https://www.wiredsafety.org/resources/biographies/parry/index.html> (both viewed 9 July 2012).

³⁴ Center for Democracy & Technology, "2012 Annual Dinner," https://org2.democracyinaction.org/o/6173/p/salsa/event/common/public/?event_KEY=9189; Center for Democracy & Technology, "2011 Dinner Sponsors," <https://www.cdt.org/2011-dinner-sponsors>; Center for Democracy & Technology, "CDT's 2010 Annual Dinner," <https://www.cdt.org/event/cdts-2010-annual-dinner> (all viewed 9 July 2012).