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May 21, 2004

Federal Trade Commission

Office of the Secretary

Room 159-H

600 Pennsylvania Avenue N.W.

Washington, D.C. 20580

Dear Mr. Secretary:

On behalf of InterContinental Hotels Group (IHG) and the IAHI, Owner's Association of InterContinental Hotels Group, we would like to thank the FTC for hosting the Workshop on Spyware on April 19. We support the position that spyware appears to be a new and rapidly growing practice that poses a risk of serious harms to consumers. We also believe that consumer frustration and dissatisfaction has been difficult to identify and measure because consumers simply do not know who to call with their complaints. We noted statistics and trends shared at the Workshop by McAfee Security, Dell Computers, Lavasoft, Pest Patrol and Zero-Knowledge Systems, who all confirmed our perception.

We agree that businesses can be harmed and offer the following comments based on our own experience.

We contend that the use and practice of spyware is harmful to marketplace competition. This is particularly true for small or entrepreneurial business owners who develop an innovative product or service and then have their customers "stolen" from their Internet websites through the vehicle of spyware. This is analogous to having a competitor stand near the cash register inside a retail store and intercept customers as they walk up to buy merchandise. The competitor claims to have a better offer or price and takes the customer by the arm and leads them out of the store to their place of business. This is exactly what is happening in our "cyber stores" when a customer is ready to purchase. The only differences are that our "retail store" is an Internet web site, and the customers often do not realize they are being re-directed to another "store".

Most new businesses and small companies simply do not have the financial resources to combat spyware activities from stealing customers from their places of business on the Internet. We estimate that IHG has invested approximately \$1 million to date in combating spyware. We also estimate that as a result of our brands being targeted by spyware, overall losses to hotel owners operating in our brands are in the tens of millions. Spyware becomes a barrier to entry in the marketplace and is another aspect of discouraging competition.

We maintain that this does not call for a new area of regulation, but rather an update of existing regulations applied to the new online world. We urge the Commission to consider and support regulatory controls to address spyware. We recommend regulation and enforcement in these areas:

1. Software offered on the Internet for consumer downloads must be simple, easy and convenient to remove or uninstall. This supports and reinforces consumer choice.
2. Clear and prominent labeling prior to software downloading is needed on any software features that track, monitor or interact with a consumer's activity on the Internet.
3. There needs to be prohibition of deliberate and intentional activity to interfere with a website for the purpose of attracting or re-directing customers to another source of advertised product or service.
4. Owners of e-commerce websites who are victimized by spyware need a means of redress.

In considering regulatory controls, we recommend enforcement directed at the parties who benefit from spyware rather than the service companies who execute and implement spy ware for their clients.

Again, thank you for the leadership role you have taken in this and other privacy related business practices.

Sincerely,

Ms. Lynn Goodendorf, CISSP

Vice President - Information Privacy Protection

InterContinental Hotels Group

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