The Honorable John H. Chun

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMAZON.COM, INC., *et al.*,

Defendants.

No. 2:23-cv-00932-JHC

DECLARATION OF JOSEPH A. REITER IN SUPPORT OF DEFENDANTS AMAZON.COM, INC.'S, NEIL LINDSAY'S, RUSSELL GRANDINETTI'S, AND JAMIL GHANI'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF THEIR MOTIONS TO DISMISS AMENDED COMPLAINT

I, Joseph A. Reiter, declare as follows:

1. I am a partner at the law firm Hueston Hennigan LLP, counsel for Defendants Amazon.com, Inc., Neil Lindsay, Russell Grandinetti, and Jamil Ghani in the above-captioned case. To the best of my knowledge, the matters set forth herein are true and correct and, if called as a witness, I could and would testify competently thereto.

2. I submit this declaration in support of Defendants' Request for Judicial Notice in Support of Their Motions to Dismiss Amended Complaint.

3. **Exhibit 1** is a true and accurate excerpt of Volume 88 of the Federal Register (the FTC's Proposed Negative Option Rule) which is available at https://www.govinfo.gov/content/pkg/FR-2023-04-24/pdf/2023-07035.pdf. The FTC's Proposed Negative Option Rule is also available on the FTC's website at

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https://www.ftc.gov/system/files/ftc_gov/pdf/p064202_negative_option_nprm.pdf. Both links were last accessed on October 18th, 2023.

4. **Exhibit 2** contains a true and accurate screenshot of the webpage located at https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf. This screenshot was captured on October 17, 2023.

5. **Exhibit 3** is a true and accurate excerpt of Volume 86 of the Federal Register (the FTC's Enforcement Policy Statement Regarding Negative Option Marketing), which is available at https://www.govinfo.gov/content/pkg/FR-2021-11-04/pdf/2021-24094.pdf. The FTC's Enforcement Policy Statement Regarding Negative Option Marketing is also available on the FTC's website at https://www.ftc.gov/system/files/documents/public_statements/1598063/negative_option_policy_statement-10-22-2021-tobureau.pdf. Both links were last accessed on October 18th, 2023.

6. **Exhibit 4** contains a true and accurate screenshot of the webpage located at https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-looks-modernize-its-guidance-preventing-digital-deception. This screenshot was captured on October 17, 2023.

7. **Exhibit 5** contains a true and accurate screenshot of an FTC tweet located at https://twitter.com/FTC/status/222418552190287873. This screenshot was captured on October 17, 2023.

8. **Exhibit 6** contains a true and accurate copy of a letter from State Attorneys General to the FTC's Acting Secretary regarding the proposed Negative Option Rule, available at https://ag.ny.gov/sites/default/files/comment_letter_of_23_state_attorneys_general_project_no._p064202_negative_option_rule_16_cfr_425_12.2.19.pdf. This link was last accessed on October 18, 2023.

9. **Exhibit 7** contains a true and accurate copy of FTC Commissioner Phillips's dissenting statement in *In the Matter of MoviePass, Inc.*, available at https://www.ftc.gov/

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system/files/documents/public_statements/1590712/moviepass_statement_phillips_final.pdf. This link was last accessed on October 18, 2023.

10. **Exhibit 8** contains a true and accurate screenshot of the webpage located at https://www.ftc.gov/news-events/news/press-releases/2021/02/ftc-hold-virtual-workshop-exploring-digital-dark-patterns. This screenshot was captured on October 17, 2023.

11. **Exhibit 9** contains a true and accurate screenshot of the webpage located at https://www.ftc.gov/news-events/news/press-releases/2021/04/ftc-seeks-public-comment-dark-patterns-topics-ahead-workshop. This screenshot was captured on October 17, 2023.

12. **Exhibit 10** contains a true and accurate screenshot of the webpage located at https://www.ftc.gov/news-events/events/2021/04/bringing-dark-patterns-light-ftc-workshop. This screenshot was captured on October 17, 2023.

13. **Exhibit 11** contains a true and accurate copy of the transcript of the FTC's Dark Patterns Workshop, available at https://www.ftc.gov/system/files/documents/public_events/1586943/ftc_darkpatterns_workshop_transcript.pdf. This link was last accessed on October 18, 2023. This document can also be accessed from the accessed by clicking a link in Exhibit 10 labeled "Dark Patterns Transcript," located under "Transcripts."

14. **Exhibit 12** contains a true and accurate copy of FTC Commissioner Slaughter's Dissenting Statement in *In the Matter of FTC v. Facebook*, which is available at https://www.ftc.gov/system/files/documents/public_statements/1536918/182_3109_slaughter_statement_on_facebook_7-24-19.pdf. This link was last accessed on October 18, 2023.

Exhibit 13 contains a true and correct copy of the FTC Staff Report titled "Bringing Dark Patterns to Light," available at https://www.ftc.gov/system/files/ftc_gov/pdf/P214800%20Dark%20Patterns%20Report%209.14.2022%20-%20FINAL.pdf. This link was last accessed on October 18, 2023.

Executed on this 18th day of October, 2023, in Newport Beach, California.

Joseph A. Reiter

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