

**STATEMENT OF
COMMISSIONER PAMELA JONES HARBOUR**

**Regarding Comment on Google Books Project
September 3, 2009**

At the outset, I want to emphasize how fortunate the Federal Trade Commission is to have David Vladeck at the helm of the Bureau of Consumer Protection. Director Vladeck is an effective champion for consumers. Under his leadership, the Bureau of Consumer Protection is now expanding the scope of the Commission's privacy policy.¹

This statement addresses Director Vladeck's letter to Jane Horvath, Global Privacy Counsel, Google Inc., dated September 2, 2009. The letter discusses Google's privacy policies and their applicability to the Google Books project.²

As Google's own letter³ indicates, the ultimate scope of Google Books services is presently unknown. Google cannot design or construct its product until after a federal district court approves the underlying class action settlement.⁴ Therefore, as Google admits, Google cannot currently articulate a comprehensive privacy policy for Google Books.⁵ Amidst so much speculation, the Bureau has been appropriately circumspect in its comments regarding the adequacy of Google's preliminary privacy commitments. I expect the Commission will carefully evaluate any actual product-specific privacy policy Google may develop for Google Books.

¹ See, e.g., Stephanie Clifford, *Fresh Views at Agency Overseeing Online Ads*, N.Y. TIMES, Aug. 4, 2009, available at <http://www.nytimes.com/2009/08/05/business/media/05ftc.html>; Amy Schatz, *Regulators Rethink Approach to Online Privacy*, WALL ST. J., Aug. 5, 2009, available at <http://online.wsj.com/article/SB124949972905908593.html>.

² Letter from David Vladeck, Director, Bureau of Consumer Protection, Federal Trade Commission, to Jane Horvath, Global Privacy Counsel, Google Inc. (Sept. 2, 2009), available at <http://www.ftc.gov/os/closings/090903horvathletter.pdf>.

³ Letter from Jane Horvath, Global Privacy Counsel, Google Inc., to David Vladeck, Director, Bureau of Consumer Protection, Federal Trade Commission (Aug. 31, 2009), available at <http://www.ftc.gov/os/closings/090903bcpgoogleletter.pdf>.

⁴ *The Authors Guild, et al. v. Google Inc.*, Civ. No. 1:05-CV-8136 (S.D.N.Y.).

⁵ [This footnote was added on September 8, 2009.] After receiving Director Vladeck's letter – and after release of that letter, this statement, and related materials – Google posted a “Google Books Privacy Policy,” dated September 3, 2009, available at <http://books.google.com/googlebooks/privacy.html>.

⁶ Concurring Statement of Commissioner Pamela Jones Harbour, *Regarding Staff Report, “Self-Regulatory Principles for Online Behavioral Advertising”* (Feb. 12, 2009) [hereinafter Harbour Behavioral Advertising Stateme