

subscription that permits users to pay to have access to its provided video content.

4. Critically, Defendant utilizes a wide array of extremely sophisticated tracking technology that collects its subscribers' personally identifiable information ("PII"), including information which identifies a person as having viewed specific videos on Defendant's streaming service. Defendant knowingly discloses this information to third party analytic and advertising providers so that they can target specific users with tailored advertisements based on their viewing history.

5. However, Defendant discloses its subscribers' PII without their consent, and in doing so, Defendant has violated the VPPA and Plaintiffs' and the other Class members' statutory rights.

6. Accordingly, Plaintiffs bring this class action for legal and equitable remedies to redress and put a stop to Defendant's practices of knowingly disclosing its subscribers' PII to third-parties in violation of the VPPA.

JURISDICTION AND VENUE

7. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is knowingly doing business within this State such that it has sufficient minimum contacts with Illinois and has purposely availed itself of Illinois markets to make it reasonable for this Court to exercise jurisdiction over Defendant, and because Plaintiffs' claims arise out of or relate to Defendant's conduct in Illinois, as Defendant illegally discloses the video viewing information of Plaintiffs' and the other putative Class members' in this State.

8. Venue is proper in Cook County, Illinois pursuant to 735 ILCS 5/2-101 because Defendant conducts business in Cook County and thus resides there under § 2-102.

PARTIES

9. Plaintiff Adam Dahan is a natural person and citizen of Illinois.

10. Plaintiff Jared O'Connor is a natural person and citizen of Illinois.

11. Defendant Sinclair, Inc. is a Maryland corporation with its principal place of business located in Hunt Valley, Maryland.

COMMON FACTUAL ALLEGATIONS

I. The Video Privacy Protection Act

12. The VPPA prohibits “[a] video tape service provider” from “knowingly disclos[ing], to any person, personally identifiable information concerning any consumer of such provider.” 18 U.S.C. § 2710(b)(1).

13. The VPPA defines PII as “information which identifies a person as having requested or obtained specific video materials or services from a video service provider.” 18 U.S.C. § 2710(a)(3).

14. A video tape service provider is “any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual material.” 18 U.S.C. § 2710(a)(4).

15. Further, the act defines a “consumer” as “any, renter, purchaser, or subscriber of goods or services from a video tape service provider.” 18 U.S.C. § 2710 (a)(1).

16. In 2012, Congress amended the VPPA, and in so doing, reiterated the Act’s applicability to “so-called ‘on-demand’ cable services and internet streaming services [that] allow consumers to watch movies or TV shows on televisions, laptop computers, and cell phones.” S. Rep. 112-259, at 2.

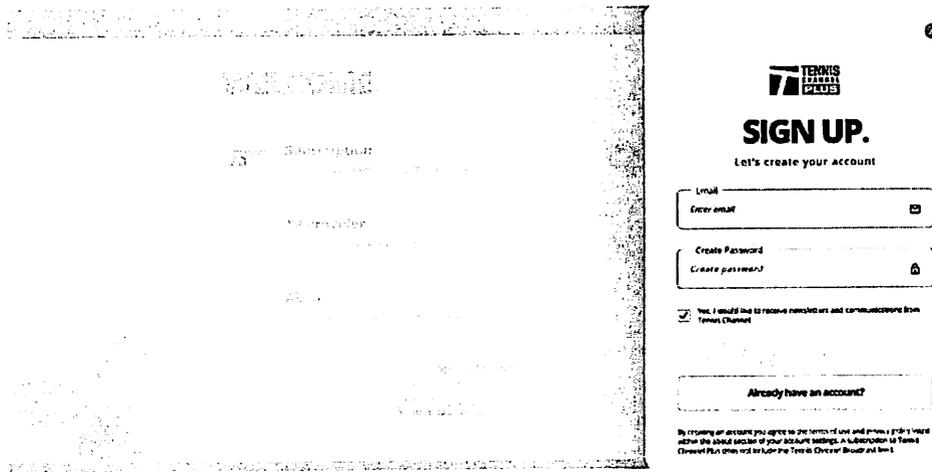
17. Thus, the VPPA applies to video streaming service providers, such as Defendant, and its streaming platform through which subscribers watch video content.

II. Defendant Discloses its Subscribers’ PII to Third Parties

18. Defendant is the operator of Tennischannel.com, one of the most popular sports streaming services in the country dedicated to providing prerecorded and live coverage of tennis and other racquetball sports.

19. In order to gain access to Defendant’s complete library of prerecorded tennis matches, consumers are required to subscribe to Tennischannel.com by creating an account and purchasing a paid subscription. (Tennischannel.com account holders are hereinafter referred to as “Subscribers”).

20. Importantly, as shown below, while creating their accounts, Subscribers are not specifically asked to consent to Defendant sharing and disclosing their PII to third parties, including information which identifies them as having viewed specific video content.



21. However, despite not obtaining informed, written consent from its Subscribers which is distinct and separate from any form setting forth other legal obligations, Defendant discloses its Subscribers’ PII to various third parties.

22. Specifically, a live data-traffic analysis of Defendant’s website shows that Defendant discloses its Subscribers’ PII to Alphabet, Inc. (“Google”) by utilizing a Google Analytics Pixel to track every interaction that a Subscriber has while viewing

Tennischannel.com, as well as to Easelive.tv, a provider of ad-integration services to streaming companies such as Defendant.

23. Defendant's use of a Google Analytics Pixel allows Defendant to track Subscribers interactions with Tennischannel.com in exacting detail by sending the following information to Google:

- type of browser
- operating system
- device (desktop, tablet, mobile)
- screen resolution
- duration of the session
- pages viewed per session
- sequence of pages visited
- geo-location
- IP address
- and all interactions with the website, including clicks to play a certain video, and the video played.

24. In short, every single interaction between a Subscriber and Tennischannel.com is recorded and sent to Google, including information sufficient to identify a particular Subscriber and the video content that they watched.

25. Importantly, if a Subscriber is a Google user independent of their use of Tennischannel.com, Defendant's website obtains their Google ID and links all of their website interactions to their global Google ID.

26. In conjunction with its use of a Google Analytics Pixel, Defendant also utilizes

Easelive.tv. Easelive.tv is a provider of video-overlay services that allow streaming services such as Defendant's Tennischannel.com to provide various messages to viewers on top of the video content that they are watching, including advertisements.

27. In order to utilize Easelive.tv's service, Defendant disclosed to Easelive.tv Subscribers' specific unique account information based on their login ID, including their email and password, and all of their activities on Defendant's website while logged in under their unique account, including specifically what videos they watched.

28. Defendant discloses its Subscribers' identities and viewing information to Google and Easelive.tv in order to enable its ad partners to deliver ads to specific Subscribers that are most likely to fit the criteria that they are looking for.

29. Defendant's own privacy policy further acknowledges its collection and disclosures of Subscribers' PII to third parties, stating that it shares "Name, alias, postal address," "site interactions . . . videos watched", and "geolocation," with "advertising platform partners" and "strategically aligned businesses" for the purpose of "advertising customization" in order "To provide you, or allow selected third parties to provide you, with information about products or services, that may be of interest to you."¹

30. Critically, at no point does Defendant obtain its Subscribers', including Plaintiffs', prior written consent as required under the VPPA to share their PII and video viewing history with any third parties, including Google and Easelive.tv, and its Subscribers remain unaware that their PII and other sensitive data is being disclosed and/or collected by such third parties.

31. Defendant's Subscribers are unaware of the status of their PII and viewing

¹ <https://sbgi.net/privacy-policy/> (last accessed March 13, 2024).

history, to whom it has been disclosed, and who has possession and retained such information as a result of Defendant's illegal disclosures.

32. By disclosing its Subscribers' PII, which undeniably reveals both an individual's identity and the video materials they have requested from Defendant's services, Defendant has intentionally and knowingly violated the VPPA.

FACTS SPECIFIC TO PLAINTIFFS

33. Plaintiff Andrew Dahan is a current subscriber to Defendant's Tennischannel.com streaming service.

34. Plaintiff has used his paid subscription with Defendant to frequently view prerecorded video materials since signing up.

35. Defendant knowingly and intentionally disclosed Plaintiff's PII, including specifically his viewing history or PII, to Google and Easelive.tv.

36. Plaintiff never specifically and separately consented, agreed, authorized, or otherwise permitted Defendant to collect his PII, including specifically information that could be used to identify him as an individual who has requested to view a specific video(s), and disclose his PII to Google, Easelive.tv, or any other third-parties. Plaintiff did not provide his informed written consent to such disclosures in a form distinct and separate from any form setting forth his other legal obligations.

37. To this day, Plaintiff is unaware of the status of his PII, to whom it has been disclosed, and who has possession and retained his PII as a result of Defendant's illegal disclosures.

38. Plaintiff Jared O'Connor is a current subscriber to Defendant's Tennischannel.com streaming service.

39. Plaintiff has used his paid subscription with Defendant to frequently view prerecorded video materials since signing up.

40. Defendant knowingly and intentionally disclosed Plaintiff's PII, including specifically his viewing history or PII, to Google and Easelive.tv.

41. Plaintiff never specifically and separately consented, agreed, authorized, or otherwise permitted Defendant to collect his PII, including specifically information that could be used to identify him as an individual who has requested to view a specific video(s), and disclose his PII to Google, Easelive.tv, or any other third-parties. Plaintiff did not provide his informed written consent to such disclosures in a form distinct and separate from any form setting forth his other legal obligations.

42. To this day, Plaintiff is unaware of the status of his PII, to whom it has been disclosed, and who has possession and retained his PII as a result of Defendant's illegal disclosures.

43. By disclosing Plaintiffs' PII, which reveals both their identity and the prerecorded videos that they viewed on Tennischannel.com, to third-parties, Defendant has intentionally and knowingly violated the VPPA and Plaintiffs' privacy rights.

CLASS ALLEGATIONS

44. Plaintiffs bring this action on their own behalf and on behalf of a nationwide class (the "Class"), pursuant to 735 ILCS 5/2-801 defined as follows:

The Class: All persons in the United States who had a paid subscription account with Tennischannel.com that they used to view prerecorded video materials from June 24, 2022, to the present.

45. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family member of such officers or directors.

46. Upon information and belief, there are hundreds of thousands of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiffs, the members can be easily identified through Defendant's records.

47. Plaintiffs' claims are typical of the claims of the members of the Class Plaintiffs seek to represent, because the factual and legal bases of Defendant's liability to Plaintiffs and the other members are the same, and because Defendant's conduct has resulted in similar injuries to Plaintiffs and to the Class. As alleged herein, Plaintiffs and the Class have all suffered damages as a result of Defendant's VPPA violations.

48. There are many questions of law and fact common to the claims of Plaintiffs and the other Class Members, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not limited to, the following:

- (a) Whether Defendant disclosed Class members' PII;
- (b) Whether the information disclosed to third parties concerning Class Members PII constitutes personally identifiable information under the VPPA;
- (c) Whether Defendant knowingly disclosed the Class Members' PII to third-parties;
- (d) Whether Class members provided written informed consent to Defendant's disclosure of their PII to third parties as required by the VPPA;

(e) Whether the Class is entitled to damages and other relief as a result of Defendant's conduct.

49. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions in that it conserves the resources of the courts and the litigants and promotes consistency of adjudication.

50. Plaintiffs will adequately represent and protect the interests of the members of the Class. Plaintiffs have retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiffs and Plaintiffs' counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and have the financial resources to do so. Neither Plaintiffs nor Plaintiffs' counsel have any interest adverse to those of the other members of the Class.

51. Defendant has acted and failed to act on grounds generally applicable to Plaintiffs and the other members of the Class, requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

COUNT I
Violations of the Video Privacy Protection Act
(On behalf of Plaintiffs and the Class)

52. Plaintiffs hereby incorporate the above allegations by reference as though fully set forth herein.

53. The VPPA prohibits a "video tape service provider" from knowingly disclosing "personally-identifying information" of any subscriber to their services to a third party without their "informed, written consent[.]" 18 U.S.C. § 2710.

54. As defined in 18 U.S.C. § 2710 (a)(4), a “video tape service provider” is “any person, engaged in the business, in or affecting interstate commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audiovisual materials.”

55. As defined in 18 U.S.C. § 2710 (a)(3), “personally-identifiable information” is defined to include “information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider.”

56. As defined in 18 U.S.C. § 2710 (a)(1), a “consumer” means “any renter, purchaser, or subscriber of goods or services from a video tape service provider.”

57. Defendant is a “video tape service provider” as defined in 18 U.S.C. § 2710 (a)(4) because it provided prerecorded sports videos to subscribers such as Plaintiffs and the other Class members through its streaming service.

58. Plaintiffs, like the other Class members were “consumers” under the VPPA as they were subscribers to Defendant’s streaming service who viewed prerecorded sports videos through its service.

59. Defendant knowingly caused Plaintiffs’ and the other Class members’ PII, including information that can be used to identify them as having requested or obtained specific prerecorded video materials or services, to be disclosed to third parties, including specifically Google and Easelive.tv. This information constitutes PII under 18 U.S.C. § 2710 (a)(3) because it identified each Plaintiffs and Class Members to third parties as an individual who viewed specific prerecorded video materials requested from Defendant’s streaming platform.

60. As set forth in 18 U.S.C. § 2710 (b)(2)(B), “informed, written consent” must be (1) in a form distinct and separate from any form setting forth other legal or financial obligations of the consumer; and (2) at the election of the consumer, is either given at the time the disclosure

is sought or given in advance for a set period of time not to exceed two years or until consent is withdrawn by the consumer, whichever is sooner.”

61. Defendant did not obtain informed, written consent from Plaintiffs and the Class Members under the VPPA before disclosing their PII, including specifically their viewing history, to third parties.

62. Defendant knew that these disclosures identified Plaintiffs and Class Members to third parties. By knowingly and intentionally disclosing Plaintiffs’ and Class Members’ PII without their written consent, Defendant violated Plaintiffs’ and Class Members’ statutorily protected right to privacy under the VPPA.

63. As a result of the above-mentioned violations, Defendant is liable to Plaintiffs and the other Class Members for damages related to their loss of privacy in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the Class, prays for the following relief:

1. An order certifying the Class as defined above;
2. For all forms of relief set forth above
3. An order enjoining Defendant from continuing to engage in the unlawful conduct and practices described herein;
4. An award of attorney’s fees and costs;
5. Award such further relief as the Court deems reasonable and just.

JURY DEMAND

Plaintiffs request a trial by jury of all claims that can be so tried.

DATED: June 24, 2024

Respectfully submitted,

ANDREW DAHAN and JARED O'CONNOR,
individually and on behalf of similarly situated
individuals

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