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**STATE OF VERMONT**  
**OFFICE OF THE ATTORNEY GENERAL**  
109 STATE STREET  
MONTPELIER, VT  
05609-1001

April 22, 2014

**Larry Page, CEO**  
**Google Inc.**  
1600 Amphitheatre Parkway  
Mountain View, CA 94013

Via Certified Mail, Fax to: (650) 253-0001, and E-mail to: [Larry.Page@google.com](mailto:Larry.Page@google.com)

**Re: Illegal Lending in the State of Vermont**

Dear Mr Page

We are writing you in connection with my office's ongoing efforts to address illegal and predatory lending, and to request your assistance in these efforts. As you may be aware, there has been a recent rise in illegal and predatory lending activities, particularly over the Internet. Online lenders nationwide (currently numbered at over 200) earned over \$18 billion dollars in income from high interest, small-dollar loans made in 2012. Many of these lenders use internet advertising to solicit and obtain consumers in Vermont and elsewhere

Google is the dominant provider of search and advertising services on the Internet. As we understand it, the majority of Google's profits are derived from its online-advertising technology called AdWords, which allows advertisers to bid on keywords to improve their placement on Google's "Sponsored Link's" section "Sponsored Links" appear either at the top or along the side of the search engine results page Through Google's "Sponsored Links", many online lenders offer their unlawful products and services to consumers

As explained further below, by hosting internet advertisements from online lenders, Google provides a significant yet harmful link in allowing illegal loans to injure Vermont consumers <sup>1</sup> We respectfully request. (1) an explanation of how

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<sup>1</sup> While the term "payday loans" is often used to describe the kinds of loans at issue, there are several types of loans that violate Vermont (or other state) law that are not

Google participates in creating and hosting internet lending ads, and (2) your commitment to stop hosting ads in Vermont for internet lenders that are violating Vermont law

In support of this request, below we provide some background on Vermont's regulation of lending, followed by our suggested proposal.

## **I. Vermont's Regulation of Lending Activities**

Like many states, Vermont regulates several aspects of commercial money lending, including by (1) requiring a lender to have a state license, or be a bank or a credit union, to make loans or even solicit loans (*see* 8 V.S.A. §§ 2201, 2233(b)), and (2) capping interest rates at 12-24% annually (*see* 9 V.S.A. § 41a(b)).

Failure to comply with lending laws has wide-ranging and damaging effects on consumers, in Vermont, and generally. As the Center for Responsible Lending recently described, payday loans are "designed to trap individuals in long-term debt" and have a "devastating impact on families' financial well-being."<sup>2</sup> Contrary to industry defenses, the loans are not typically used for short-term or emergency expenses.<sup>3</sup> As the Consumer Financial Protection Bureau found in its 2013 study on payday loans, most consumers remain indebted up to a year on these supposed "short-term loans."<sup>4</sup>

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strictly speaking, "payday loans." Vermont's prohibition on "unauthorized or illegal lending," refers to (i) payday loans (i.e., loans contingent on future or postdated checks); (ii) any unlicensed lender who has not obtained the required state license to make loans (including online lenders); and (iii) any loan made in excess of Vermont's usury cap (ranging from 12-24% per annum)

<sup>2</sup> *See* Center for Responsible Lending, "CRL issue Brief," October 4, 2013, *available at* [http://www.responsiblelending.org/payday\\_lending/research-analysis/State-Enforcement-Issue-Brief-10-4-FINAL.pdf](http://www.responsiblelending.org/payday_lending/research-analysis/State-Enforcement-Issue-Brief-10-4-FINAL.pdf)

<sup>3</sup> *See* National Consumer Law Center, "Stopping the Payday Loan Trap," June 2010 ("Various studies have found that 40 to 60% of consumers take out payday loans to cover routine expenses like utility bills, rent or groceries, or nonessential items"), *available at* [http://www.nclc.org/images/pdf/high\\_cost\\_small\\_loans/payday\\_loans/report-stopping-payday-trap.pdf](http://www.nclc.org/images/pdf/high_cost_small_loans/payday_loans/report-stopping-payday-trap.pdf).

<sup>4</sup> *See* Consumer Financial Protection Bureau, *Payday Loans and Deposit Advance Products. A White Paper of Initial Data Findings*, April 24, 2013 (p 38), *available at* <http://bit.ly/CFPBPaydayPaper>

In Vermont, which has a population of less than 630,000, our office has investigated one lender who funded 427 loans (\$993,025 in principal), and earned \$888,950 in interest and fees alone, at an average annualized interest rate of 136%, another lender funded 384 loans (\$197,000 in principal) and earned \$230,000 in interest and fees alone, at an average annualized interest rate over 300%. As to individual examples, one Vermont consumer complained of taking out a \$400 online loan (at over 300% annualized interest) and paying back over \$1,000 within five months (mostly through automatic withdrawals that required bank intervention), another complained of an online lender depositing \$160 in a small loan to his bank account, and then automatically withdrawing \$100 every month in “fees” (resulting in annualized interest of 747%)

In enforcing Vermont law, we have identified over 80 illegal lenders. See attached Exhibit A. These lenders have been directed to cease all unauthorized lending in Vermont, and to return all monies unlawfully collected from Vermont consumers. Vermont continues to pursue those lenders who fail to comply

However, focusing solely on the lenders is increasingly insufficient to address the problem. Many of these lenders operate online, have several affiliated companies, and change their business names often, all to obscure both their location and the true lender-in-interest. Other lenders claim tribal immunity or are located off-shore and in foreign countries, adding further complications for enforcement.

Therefore, Vermont passed legislation in May 2012 making it a violation of the state Consumer Protection Act for any person to provide “substantial assistance” to an unlicensed lender, once that person knows (or should know)<sup>5</sup> that the lender is not licensed under Title 8 of the Vermont Statutes Annotated, is not a bank or a credit union, or “is engaging in an unfair or deceptive act or practice in commerce.” See 9 V.S.A. § 2481w(d) for the full text of this provision.

## **II. Vermont’s Request for Assistance**

Given Google’s majority role in hosting internet ads, Google is well-suited to address the illegal solicitation of internet loans in Vermont. First, we request additional information on all Google advertising programs (such as “Keyword Tool” and “AdWords”) used by internet lenders (how the ads are created, what input Google provides, etc.) Perhaps Google could identify a knowledgeable person for us to contact regarding this information. Next, we respectfully ask Google to refrain from hosting ads for any lender unauthorized to conduct business in Vermont, via the following steps:

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<sup>5</sup> The statute lists “notice from a regulatory, or law enforcement” authority as a basis for such knowledge

- (1) Cease sending all current ads into Vermont for any of the entities listed in the attached “Exhibit A”, and
- (2) For all current and future ads, confirm that the lender is licensed in Vermont (or is a bank or a credit union) before posting any ad into Vermont, either by asking the lender to verify its licensure, or by checking directly on either of the following two websites:
  - (i) Nationwide Mortgage Licensing System & Registry national website
    - <http://www.nmlsconsumeraccess.org/> – enter name of the company and check for Vermont under “State Licenses/Registrations” results
  - (ii) Vermont’s Department of Financial Regulation state agency website
    - [http://www.dfr.vermont.gov/banking/verify\\_license](http://www.dfr.vermont.gov/banking/verify_license) – enter “Licensed Lender” in the first drop-down box (“Select a license”)
- (3) As a third alternative, Vermont will be sending future alerts of illegal lenders via [UnlicensedLending-request@list.state.vt.us](mailto:UnlicensedLending-request@list.state.vt.us) (please feel free to email that address to join the list and receive those monitoring alerts).

Our understanding from your website on matching ads to geographic locations is that Google is able to isolate a geographic area, like Vermont, and prevent ads from appearing for anyone located in Vermont.

We also understand that Google is proud of how it works cooperatively with state governments.<sup>6</sup> Google recently described its many practices to combat fraudulent or copyright-infringing activities online. In the context of copyright infringement, Google represented that. “[f]or AdWords, if we receive a notice or otherwise have reason to believe that an advertiser’s site is infringing, we may remove the offender’s advertising in compliance with the DMCA [Digital Millennium Copyright Act]” Letter from John Burchett (Google) to Attorneys General of MS, VA, HI, April 19, 2013. Consistent with Google’s stated practice for infringement, having now received notice of illegal lenders advertising in Vermont, we ask for Google’s commitment to remove those ads. We would be very grateful for Google’s voluntary assistance on this important public protection issue. We have sent a similar letter to Yahoo and Microsoft, requesting their assistance as well.

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<sup>6</sup> “Google has a well-documented history of cooperation with law enforcement in general and state Attorneys General in particular” Letter from Google’s counsel (WilmerHale) to Mississippi Attorney General, June 10, 2013

We would be happy to discuss our laws further and how we can work together to eradicate illegal and predatory lending. Please contact this office with any questions or suggestions. Thank you for your assistance.

Sincerely,  
  
William H. Sorrell  
Attorney General of Vermont

cc: Jim Hood, Attorney General of Mississippi

Enc. Exhibit A – “Vermont Illegal Lender List April 2014”