ATTORNEY GENERAL OF THE STATE OF NEW YORK
INTERNET BUREAU

IN THE MATTER OF:

PRICELINE.COM INCORPORATED

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of Article 22-A of the New York General Business Law (GBL), and Section 63(12) of the Executive Law, Eliot Spitzer, Attorney General of the State of New York, has made an inquiry into certain business practices of priceline.com Incorporated ("Priceline"). Based upon that inquiry, the Attorney General concludes as follows:

DEFINITIONS

1. "Adware" or "adware program" shall mean any downloadable software program that displays advertisements to a computer user, including, but not limited to, programs that display pop-up or pop-under advertisements, redirect website or search requests, install toolbars onto Internet browsers or electronic mail clients, or highlight particular keywords or phrases for Internet users as they surf the web.

2. "Adware marketing partner" shall mean any adware company, ad buyer, affiliate, third party distribution partner or other entity that arranges for, purchases, places, or installs the adware program that displays advertising of the products or services of Priceline through adware.

FINDINGS OF ATTORNEY GENERAL

1. Priceline is an Internet-based company that offers travel services and products through the PRICELINE.COM web site.

2. Priceline maintains a principal place of business at 800 Connecticut Avenue,

Norwalk, CT 06854. Priceline advertises and promotes its PRICELINE.COM web site in the State of New York and regularly conducts business activity in New York.

3. Through the PRICELINE.COM web site, Priceline offers "name your own price" travel services, such as services for airline tickets, hotel rooms, rental cars and packaged vacations and cruises. Priceline also markets, on the PRICELINE.COM web site, financial services, such as home mortgages, refinancing and home equity loans through an independent licensee.

4. On or around May 1, 2004, through its ad buyer, Soho Digital LLC ("Soho Digital"), Priceline began using DirectRevenue, LLC ("Direct Revenue"), a Delaware corporation with its principal place of business at 107 Grand Street, New York, New York 10013, to deliver advertisements for PRICELINE.COM to Internet users worldwide, including in New York. Direct Revenue acquired Soho Digital in September 2004.

5. Direct Revenue installed adware programs onto millions of computers worldwide that delivered to users surfing the Internet a steady stream of advertisements for Direct Revenue's clients, such as Priceline. In selecting which ads to show, Direct Revenue programs also monitored the websites visited by users, along with data typed into web forms. Direct Revenue installed its adware programs on consumers' computers without adequate notice or the consent of consumers. Furthermore, Direct Revenue software was difficult to remove and also surreptitiously installed other programs and updates onto desktops already running its adware.

6. Priceline utilized Direct Revenue's adware programs to deliver its online advertisements from at least May 1, 2004 through February 24, 2006. From May 1, 2004 through October 31, 2005, Priceline paid at least $481,765.05 to advertise through Direct Revenue

adware programs. In addition, from July through October 2005, the number of Priceline advertisements shown to consumers through Direct Revenue adware totaled at least 6,142,395. Furthermore, the "gross bookings," or total aggregate dollar value of what consumers actually paid for travel services, whether to Priceline or to a supplier, as a result of Priceline advertisements delivered through Direct Revenue adware from January 1, 2004 to November 17, 2005 (and selected dates in 2003) was at least $3,597,810.

7. Priceline knew that consumers had downloaded Direct Revenue adware without full notice and consent and continued to receive ads through that software.

8. Some of Priceline's advertisements were delivered directly to consumers from web servers owned or controlled by Priceline.

9. Prior to contact by the Office of the Attorney General ("OAG") concerning the subject matter of this inquiry, Priceline had begun developing its own adware policy to address the issues of notice and consent to consumers. For example, Priceline took the leadership role with the Interactive Travel Services Association ("ITSA") to develop an industry-wide initiative. Following commencement of the OAG's investigation, ITSA published adware best practices and Priceline, in its individual capacity, adopted an adware/spyware policy.

10. On February 24, 2006, after meeting with the OAG to discuss Priceline's use of Direct Revenue adware, Priceline immediately terminated all adware advertising and, as of the date of this Assurance of Discontinuance ("Assurance"), Priceline is not using adware or any adware programs.

11. The OAG finds that, by using Direct Revenue's adware programs to advertise its products and services on the Internet, Priceline has engaged in deceptive business practices in

violation of New York General Business Law Section 349 and Executive Law Section 63(12).

12. **IT NOW APPEARS** that Priceline is willing to enter into this Assurance without admitting the OAG's findings, and that the OAG is willing to accept the terms of this Assurance pursuant to Executive Law §63(15) in lieu of commencing suit. Therefore, Priceline and the OAG agree as follows:

AGREEMENT

13. This Assurance shall be binding on and apply to Priceline whether acting now or hereafter in its own capacity or through any of its officers, directors, servants, agents, employees, assignees, or any individual, subsidiary, division, or other entity, as well as any successors in interest.

14. If Priceline uses adware in the future, then Priceline shall require all of its adware marketing partners to agree in writing to:

a. Provide to consumers full disclosure of (i) the name of each company delivering Priceline advertisements through adware ("adware provider"); (ii) the name of the adware program(s) used by the adware provider (if different from the name of the provider); and (iii) the name of all software bundled or co-branded with such adware.

b. Brand each adware advertisement with a prominent and easily identifiable brand name or icon, and use this branding consistently with each adware advertisement attributable to the brand.

c. On each screen and dialog box (without having to scroll down) where adware or its bundled or co-branded software is offered, provide a description of the adware's functions, identify all information monitored, stored and/or distributed by the adware

program, and obtain consumer consent to both download and run the adware;

d. Provide a conspicuous entry in the Add/Remove Programs facility in the consumer's operating system that identifies the adware brand and adware provider, and does not require consumers to download any additional application(s) in order to complete the uninstallation;

e. For all consumers who previously downloaded each applicable adware program without full notice and consent consistent with this Assurance ("Legacy Users"), provide notice to, and obtain consent to continue serving ads from, these Legacy Users, which notice and consent shall contain the information provided in, and shall comply with, paragraph 14 (a) through (d) herein; and

f. Require Priceline's own adware marketing partners, if any, to agree in writing to the provisions listed in paragraph 14 (a) through (e) herein.

15. If Priceline uses adware in the future, then Priceline shall also implement a due diligence program with respect to its adware advertising, to be performed at the inception of each relationship and, additionally, once per quarter, whereby Priceline shall:

a. Ask each of its adware marketing partners to provide the names of all programs used by these companies to deliver online Priceline advertisements through adware;

b. Perform a download of each identified adware program at a sampling of three websites obtained through Internet research and not provided by the applicable adware marketing partner;

c. Verify through the downloads that each adware program complies with this Assurance and Priceline's adware policy; and

d. Cease using any adware program that Priceline identifies through these downloads as violating any provision of this Assurance or Priceline's adware policy.

16. Priceline shall, within ten days of the execution date of this Assurance, pay to the State of New York the sum of $35,000 as investigatory costs and penalties.

17. Within 30 days of the execution date of this Assurance, and on the same date for the next 3 years, Priceline shall submit to the OAG a sworn, certified letter or affidavit setting forth its compliance with all terms of this Assurance, including, but not limited to, a summary of the steps taken to ensure due diligence pursuant to paragraph 15 herein.

18. Where it appears that technological innovations or developments, the characteristics of which cannot be predicted at this time, warrant modifying the Assurance, Priceline may request the OAG's prior written consent to such modifications and such consent shall not be unreasonably withheld.

19. Nothing contained in this Assurance shall be construed to alter or enhance any existing legal rights of any consumer or to deprive any person or entity of any existing private right under the law.

20. Nothing contained herein shall be construed as relieving Priceline of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Assurance be deemed permission to engage in any act or practice prohibited by such law, regulation or rule.

21. This Assurance and any forebearance herein is conditioned upon Priceline's compliance with the conditions herein, and upon the truthfulness of Priceline's statements herein and during the course of the OAG's inquiry.

22. The acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of Priceline's business practices, and Priceline shall make no representation to the contrary.

23. Any violation of the terms of this Assurance shall constitute *prima facie* evidence of a violation of the applicable law in any civil action or proceeding thereafter commenced against Priceline by the OAG.

IN WITNESS WHEREOF, the Attorney General and Priceline, intending to be legally bound hereby, have executed this Assurance on the date written below.

Dated: New York, New York
Oct. 23, 2006

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By: _____
James L. Bernard, Esq.
Counsel for priceline.com Incorporated

ATTORNEY GENERAL OF THE STATE OF NEW YORK
INTERNET BUREAU

IN THE MATTER OF:

TRAVELOCITY.COM LP

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of Article 22-A of the New York General Business Law (GBL), and Section 63(12) of the Executive Law, Eliot Spitzer, Attorney General of the State of New York, has made an inquiry into certain business practices of Travelocity.com LP ("Travelocity"). Based upon that inquiry, the Attorney General concludes as follows:

DEFINITIONS

1. "Adware" or "adware program" shall mean any downloadable software program that displays advertisements to a computer user, including, but not limited to, programs that display pop-up or pop-under advertisements, redirect website or search requests, install toolbars onto Internet browsers or electronic mail clients, or highlight particular keywords or phrases for Internet users as they surf the web. The use of this definition is not intended to suggest that Travelocity used Adware programs utilizing each of the listed features (such as redirects).

2. "Adware marketing partner" shall mean any adware company, ad buyer, affiliate, third party distribution partner or other entity that arranges for, purchases, places, or installs the adware program that displays advertising of the products or services of Travelocity through adware.

FINDINGS OF ATTORNEY GENERAL

1. Travelocity operates the TRAVELOCITY.COM web site, through which

consumers may locate and book flights, hotels, rental cars, and vacation and last minute travel packages, as well as obtain other travel-related information and services, such as destination guides.

2. Travelocity maintains a principal place of business at 3150 Sabre Drive, Southlake, Texas 76092. Travelocity advertises and promotes its TRAVELOCITY.COM web site in the State of New York and regularly conducts business activity in New York.

3. On or before July 1, 2004, Travelocity began using the adware programs of DirectRevenue, LLC ("Direct Revenue"), a Delaware corporation with its principal place of business at 107 Grand Street, New York, New York 10013, to deliver advertisements for TRAVELOCITY.COM to Internet users worldwide, including in New York. In particular, Travelocity utilized Direct Revenue's "Best Offers" program (as well as the predecessor of Best Offers known as "Aurora").

4. Direct Revenue installed adware programs onto millions of computers worldwide that delivered to users surfing the Internet a steady stream of advertisements for Direct Revenue's clients, such as Travelocity. In selecting which ads to show, Direct Revenue programs also monitored the websites visited by users, along with data typed into web forms. Direct Revenue installed its adware programs on consumers' computers without adequate notice or the consent of consumers. Furthermore, Direct Revenue software was difficult to remove and also surreptitiously installed other programs and updates onto desktops already running its adware.

5. Travelocity utilized the Direct Revenue "Aurora"/"Best Offers" adware programs described above in paragraph 3 to deliver its online advertisements from June 28, 2004 through April 9, 2005; July 30, 2005 through December 31, 2005; and January 21, 2006 through April 15,

2006. From July 1, 2004 through December 31, 2005, Travelocity paid at least $767,955.93 to advertise through Direct Revenue adware programs and the number of Travelocity advertisements shown to consumers through such adware totaled at least 2,103,341.

6. Although Travelocity was advised that Best Offers fully complied with best industry practices, during at least some of the period in which it conducted business with Direct Revenue, Travelocity was aware that Direct Revenue had in the past been the subject of consumer complaints that Direct Revenue had surreptitiously installed its software on consumers' computers without adequate notice. Had Travelocity conducted appropriate due diligence at the time it became aware of Direct Revenue's prior practices, Travelocity might have discovered that consumers who had previously downloaded Direct Revenue adware programs without full notice and consent continued to receive Travelocity ads through those programs.

7. On April 11, 2006, Travelocity terminated its relationship with Direct Revenue.

8. The Office of the Attorney General ("OAG") finds that, by using Direct Revenue's adware programs to advertise its products and services on the Internet, Travelocity has engaged in deceptive business practices in violation of New York General Business Law Section 349 and Executive Law Section 63(12).

9. **IT NOW APPEARS** that Travelocity is willing to enter into this Assurance of Discontinuance ("Assurance") without admitting the OAG's findings, and that the OAG is willing to accept the terms of this Assurance pursuant to Executive Law §63(15) in lieu of commencing suit. Therefore, Travelocity and the OAG agree as follows:

AGREEMENT

10. This Assurance shall be binding on and apply to Travelocity, as well as

Travelocity.com, Inc., the general partner for Travelocity.com LP, whether either party is acting now or hereafter in its own capacity or through any of its officers, directors, servants, agents, employees, assignees, or any individual, subsidiary, division, or other entity, as well as any successors in interest.

11. Travelocity shall require all of its adware marketing partners to agree in writing to:

a. Provide to consumers full disclosure of (i) the name of each company delivering Travelocity advertisements through adware ("adware provider"); (ii) the name of the adware program(s) used by the adware provider (if different from the name of the adware provider); and (iii) the name of all software bundled or co-branded with such adware;

b. Brand each adware advertisement with a prominent and easily identifiable brand name or icon, and use this branding consistently with each adware advertisement attributable to the brand;

c. On each screen and dialog box (without having to scroll down) where adware or its bundled or co-branded software is offered, provide a description of the adware's functions, identify all information monitored, stored and/or distributed by the adware program, and obtain consumer consent to both download and run the adware;

d. Provide a conspicuous entry in the Add/Remove Programs facility in the consumer's operating system that identifies the adware brand and adware provider, and does not require consumers to download any additional application(s) in order to complete the uninstallation;

e. For all consumers who previously downloaded each applicable adware program

without full notice and consent consistent with this Assurance ("Legacy Users"), provide notice to, and obtain consent to continue serving ads from, these Legacy Users, which notice and consent shall contain the information provided in, and shall comply with, paragraph 11 (a) through (d) herein; and

f. Require their own adware marketing partners to agree in writing to the provisions listed in paragraph 11 (a) through (e) herein.

12. Travelocity shall implement a due diligence program with respect to its adware advertising, to be performed at the inception of each relationship and, additionally, once per quarter, whereby Travelocity shall:

a. Ask each of its adware marketing partners to provide the names of all programs used by these companies to deliver online Travelocity advertisements through adware;

b. Perform a download of each identified adware program at a sampling of three websites obtained through Internet research and not provided by the applicable adware marketing partner (Travelocity is not required to determine whether the program on the particular sites tested links to Travelocity advertising);

c. Verify through the downloads that each adware program complies with this Assurance and Travelocity's adware policy; and

d. Cease using any adware program that Travelocity identifies through these downloads as violating any provision of this Assurance or Travelocity's adware policy.

13. Travelocity shall, within ten days of the execution date of this Assurance, pay to the State of New York the sum of $30,000 as penalties and investigatory costs.

14. Within thirty days of the execution date of this Assurance, and on the same date

for the next three years, Travelocity shall submit to the OAG a sworn, certified letter or affidavit setting forth its compliance with all terms of this Assurance, including, but not limited to, a summary of the steps taken to ensure due diligence pursuant to paragraph 12 herein. This certified letter or affidavit shall be addressed to: Attorney General of the State of New York, Internet Bureau, 120 Broadway, 3rd Floor, New York, New York 10271.

15. Nothing contained in this Assurance shall be construed to alter or enhance any existing legal rights of any consumer or to deprive any person or entity of any existing private right under the law.

16. Nothing contained herein shall be construed as relieving Travelocity of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Assurance be deemed permission to engage in any act or practice prohibited by such law, regulation or rule.

17. This Assurance and any forebearance herein is conditioned upon Travelocity's compliance with the conditions herein, and upon the truthfulness of Travelocity's statements herein and during the course of the OAG's inquiry.

18. The acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of Travelocity's business practices, and Travelocity shall make no representation to the contrary.

19. Any violation of the terms of this Assurance shall constitute *prima facie* evidence of a violation of the applicable law in any civil action or proceeding thereafter commenced against Travelocity by the OAG.

IN WITNESS WHEREOF, the Attorney General and Travelocity, intending to be legally bound hereby, have executed this Assurance on the date written below.

Dated: New York, New York
12-18, 2006

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By: _____
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ATTORNEY GENERAL OF THE STATE OF NEW YORK
INTERNET BUREAU

IN THE MATTER OF:

CINGULAR WIRELESS LLC

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of Article 22-A of the New York General Business Law (GBL), and Section 63(12) of the Executive Law, Andrew M. Cuomo, Attorney General of the State of New York, has made an inquiry into certain business practices of Cingular Wireless LLC ("Cingular"). Based upon that inquiry, the Office of the Attorney General ("OAG") concludes as follows:

DEFINITIONS

1. "Adware" or "adware program" shall mean any downloadable software program that displays advertisements to a computer user, including, but not limited to, programs that display pop-up or pop-under advertisements, redirect website or search requests, install toolbars onto Internet browsers or electronic mail clients, or highlight particular keywords or phrases for Internet users as they surf the web.

2. "Adware marketing partner" shall mean any adware company, ad buyer, affiliate, third party distribution partner or other entity that arranges for, purchases, places, or installs the adware program that displays advertising of the products or services of Cingular through adware.

FINDINGS

3. Cingular provides wireless voice and data carrier services and products. Cingular operates the CINGULAR.COM web site, through which the company offers for sale and

promotes its products and services. Consumers can also obtain information about and purchase Cingular products and services through Cingular's various brick and mortar stores. Cingular is a joint venture between the domestic wireless divisions of AT&T Inc. and BellSouth.

4. Cingular maintains a principal place of business at 5565 Glenridge Connector, Atlanta, Georgia 30342. Cingular regularly conducts business activity in the State of New York, such as through its various stores in New York, and also advertises and promotes its CINGULAR.COM web site in New York.

5. On or before April 1, 2004, Cingular began using the adware programs of DirectRevenue, LLC ("Direct Revenue"), a Delaware corporation with its principal place of business at 107 Grand Street, New York, New York 10013, to deliver its advertisements to Internet users worldwide, including in New York.

6. Direct Revenue installed adware programs onto millions of computers worldwide that delivered to users surfing the Internet a steady stream of advertisements for Direct Revenue's clients, such as Cingular. In selecting which ads to show, Direct Revenue programs also monitored the websites visited by users, along with data typed into web forms. Direct Revenue installed its adware programs on consumers' computers without adequate notice or the consent of consumers. Furthermore, Direct Revenue software was difficult to remove and also surreptitiously installed other programs and updates onto desktops already running its adware.

7. Cingular utilized Direct Revenue's adware programs to deliver its online advertisements from at least April 1, 2004 through October 11, 2005. Cingular paid at least $592,172 through July 2005 to advertise through Direct Revenue adware programs, and the number of Cingular advertisements shown to consumers through such adware through July 2005

totaled at least 27,623,257.

8. Even though Cingular was aware of controversy surrounding the use of adware and was aware, or should have been aware, of Direct Revenue's deceptive practices, including surreptitious downloads, Cingular continued to use Direct Revenue adware programs to distribute its online advertisements.

9. Consumers who had previously downloaded Direct Revenue adware programs without full notice and consent continued to receive Cingular ads through those programs.

10. On October 11, 2005, Cingular ceased using Direct Revenue adware programs and terminated its relationship with Soho Digital LLC, Direct Revenue's sales arm, as of December 31, 2005.

11. The OAG finds that, by using Direct Revenue's adware programs to advertise its products and services on the Internet, Cingular has engaged in deceptive business practices in violation of New York General Business Law Section 349 and Executive Law Section 63(12).

12. **IT NOW APPEARS** that Cingular is willing to enter into this Assurance of Discontinuance ("Assurance") without admitting the OAG's findings, and that the OAG is willing to accept the terms of this Assurance pursuant to Executive Law §63(15) in lieu of commencing suit. Therefore, Cingular and the OAG agree as follows:

AGREEMENT

13. This Assurance shall be binding on and apply to Cingular whether acting now or hereafter in its own capacity or through any of its officers, directors, servants, agents, employees, assignees, or any individual, subsidiary, division, or other entity, as well as any successors in interest.

14. Cingular shall require all of its adware marketing partners who act at the direction of Cingular or its agent for the purpose of placing adware to agree in writing to:

a. Provide to consumers full disclosure of (i) the name of each company delivering Cingular advertisements through adware ("adware provider"); (ii) the name of the adware program(s) used by the adware provider (if different from the name of the adware provider); and (iii) the name of all software bundled or co-branded with such adware.

b. Brand each adware advertisement with a prominent and easily identifiable brand name or icon, and use this branding consistently with each adware advertisement attributable to the brand.

c. On each screen and dialog box (without having to scroll down) where adware or its bundled or co-branded software is offered, provide a description of the adware's functions, identify all information monitored, stored and/or distributed by the adware program, and obtain consumer consent to both download and run the adware;

d. Provide a conspicuous entry in the Add/Remove Programs facility in the consumer's operating system that identifies the adware brand and adware provider, and does not require consumers to download any additional application(s) in order to complete the uninstallation;

e. For all consumers who previously downloaded each applicable adware program without full notice and consent consistent with this Assurance ("Legacy Users"), provide notice to, and obtain consent to continue serving ads from, these Legacy Users, which notice and consent shall contain the information provided in, and shall comply with, paragraph 14 (a) through (d) herein; and

f. Require their own adware marketing partners to agree in writing to the provisions listed in paragraph 14 (a) through (e) herein.

15. Cingular shall implement a due diligence program with respect to its adware advertising, to be performed at the inception of each relationship and, additionally, once per quarter, whereby Cingular shall:

a. Ask each of its adware marketing partners who act at the direction of Cingular or its agent for the purpose of placing adware to provide the names of all programs used by these companies to deliver online Cingular advertisements through adware;

b. Perform a download of each identified adware program at a sampling of three websites obtained through Internet research and not provided by the applicable adware marketing partner;

c. Verify through the downloads that each adware program complies with this Assurance and Cingular's adware policy; and

d. Cease using any adware program that Cingular identifies through these downloads as violating any provision of this Assurance or Cingular's adware policy.

16. In the event that the parties disagree as to the propriety of applying any provision of paragraph 14 or 15 to a software program that does not have as a primary purpose the delivery of advertisements and that provides a bona fide functionality to consumers that is separate and distinct from advertising, the parties agree to discuss the matter in good faith, provided, however, that, in the absence of agreement, the express terms of this Assurance shall govern.

17. Cingular shall, within 30 days of the execution date of this Assurance, pay to the State of New York the sum of $35,000 as penalties and investigatory costs.

18. Within 30 days of the execution date of this Assurance, and on the same date for the next five years, Cingular shall submit to the OAG a sworn, certified letter or affidavit setting forth its compliance with all terms of this Assurance, including, but not limited to, a summary of the steps taken to ensure due diligence pursuant to paragraph 15 herein.

19. Where it appears that technological innovations or developments, the characteristics of which cannot be predicted at this time, warrant modifying the Assurance, Cingular may request the OAG's prior written consent to such modifications and such consent shall not be unreasonably withheld.

20. Nothing contained in this Assurance shall be construed to alter or enhance any existing legal rights of any consumer or to deprive any person or entity of any existing private right under the law.

21. Nothing contained herein shall be construed as relieving Cingular of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Assurance be deemed permission to engage in any act or practice prohibited by such law, regulation or rule.

22. This Assurance and any forebearance herein is conditioned upon Cingular's compliance with the conditions herein, and upon the truthfulness of Cingular's statements herein and during the course of the OAG's inquiry.

23. The acceptance of this Assurance by the OAG shall not be deemed approval by the OAG of any of Cingular's business practices, and Cingular shall make no representation to the contrary.

24. Any violation of the terms of this Assurance shall constitute *prima facie* evidence of a violation of the applicable law in any civil action or proceeding thereafter commenced against Cingular by the OAG.

IN WITNESS WHEREOF, the Attorney General and Cingular, intending to be legally bound hereby, have executed this Assurance on the date written below.

Dated: New York, New York
1-29, 2007

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By: _____
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