



[BILLING CODE: 6750-01S]

FEDERAL TRADE COMMISSION

[File No. 172 3139]

Unrollme Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement; Request for Comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order -- embodied in the consent agreement -- that would settle these allegations.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Interested parties may file comments online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY**

INFORMATION section below. Write: "Unrollme Inc.; File No. 172 3139" on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Amanda Koulousias (202-326-3334), Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 8, 2019), on the World Wide Web, at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. Write “Unrollme Inc.; File No. 172 3139” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you prefer to file your comment on paper, write “Unrollme Inc.; File No. 172 3139” on your comment and on the envelope, and mail your comment to the following

address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex D), Washington, DC 20580; or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential" – as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and

must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC Website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment from the FTC Website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC Website at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Unrollme Inc. (“Unrollme”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received, and will decide whether it should

withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves Unrollme's email management service, which Unrollme has offered to consumers since at least June 2012. Unrollme provides services to consumers to help them manage subscription emails, such as newsletters or marketing emails from retailers. During the sign-up process, Unrollme requires consumers to grant Unrollme full access to the email accounts that they wish to enroll in its services. This permission allows Unrollme to access and scan users' inboxes for subscription emails to provide its services. Unrollme also provides access to its users' email accounts to its parent company, Slice Technologies, Inc. ("Slice"). Slice, a market research company, accesses Unrollme users' inboxes in order to collect information from the users' e-receipts, *i.e.*, emailed receipts from businesses following an order or purchase. Slice retains this information, and creates a separate database of anonymous purchase information that it uses in its market research analytics products.

After learning that Unrollme requires access to their email account(s) during the sign-up process, some consumers declined to grant that permission. The proposed complaint alleges that when consumers initially declined to grant permission to their email account(s), Unrollme violated Section 5 of the FTC Act by making false and deceptive statements designed to encourage the consumer to change his or her mind and grant Unrollme access to his or her email account(s) and continue the sign-up process.

Count I of the proposed complaint alleges that Unrollme represented, directly or indirectly, expressly or by implication, that it would not touch users' "personal emails." From at least January 2015 through November 2015, Unrollme's message to consumers

who declined to grant Unrollme access to their email stated, “It looks like you clicked No thanks. In order to use Unroll.me, you need to tell [your email service provider] to allow us to monitor your emails. ***Don’t worry, we won’t touch your personal stuff.***” (Emphasis added). From November 2015 through October 26, 2016, Unrollme’s message to consumers who declined to grant Unrollme access to their email stated, “Authorization Declined In order to use Unroll.me, you need to authorize us to access your emails. ***Don’t worry, this is just to watch for those pesky newsletters, we’ll never touch your personal stuff.***” (Emphasis added). The proposed complaint alleges that these representations were false or misleading because Unrollme grants Slice access to its users’ inboxes, including personal emails in the form of e-receipts, which is then used to collect and sell purchase information contained therein to third parties.

Count II of the proposed complaint alleges that Unrollme represented, directly or indirectly, expressly or by implication, that Unrollme required access to users’ inboxes in order to scan for subscription emails. From October 27, 2016, through at least September 2018, Unrollme’s message to consumers who declined to grant Unrollme access to their email has stated, “Oops! Looks like you declined access” and “Unroll.Me requires access to your inbox so we can scan for subscriptions and allow you to begin clearing out your inbox.” The complaint alleges that Unrollme failed to disclose, or failed to disclose adequately, that Unrollme also grants Slice access to its users’ inboxes, which Slice then used to collect and sell purchase information contained in users’ personal emails in the form of e-receipts and that this fact would be material to consumers in their decision to use Unrollme’s services.

The proposed order contains injunctive provisions addressing the alleged deceptive conduct. Part I of the proposed order prohibits misrepresentations about the extent to which Unrollme accesses, collects, uses, stores or shares covered information in connection with any product, service or software operated, owned or distributed by Unrollme that requires access to consumer emails.

Part II of the proposed order requires Unrollme to send an email notification to all known current users who enrolled in Unrollme's services after viewing the challenged statements that explains that Unrollme or its parent access or collect email purchase receipts for use in market research products that are sold to third parties. The required notification is contained in Exhibit A of the proposed order. Part III of the proposed order requires Unrollme to delete within 10 days of the entry of the Order all stored email purchase receipts, and all personally identifiable information obtained from those receipts, for all known users who enrolled in Unrollme's services after viewing the challenged statements.

Parts IV through VII of the proposed order are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Unrollme to provide information or documents necessary for the Commission to monitor compliance.

Part VIII states that the proposed order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order's terms.

By direction of the Commission.

April J. Tabor,

Acting Secretary.

Separate Statement of Commissioner Noah Joshua Phillips

I join my colleagues in supporting this settlement, but write separately to highlight the surrounding circumstances, which are relevant to the current privacy debate.

As the complaint alleges, Unroll.me offered a free service that helped consumers organize their email inboxes. It supported this free service by allowing its parent company to scan consumers' emails for purchase-related information, which the parent collected for the anonymized market research it sells. Until around September 2018, the complaint alleges that, in a number of instances, Unroll.me failed adequately to disclose these collection practices, which failure violated the law.

Unrelated to the allegations in the complaint, in late 2018, Google announced it would limit third-party apps (like Unroll.me) from using the information in Gmail accounts of consumers for purposes such as market research or advertising.¹ Promoted as means to enhance consumer privacy, that decision may also limit consumer choice and competition.

Many millions of consumers see value in Unroll.me's service, which helps them manage the barrage of daily emails crowding their inboxes. Unroll.me has since removed

¹ Ben Smith, Project Strobe: Protecting your data, improving our third-party APIs, and sunseting consumer Google+, GOOGLE SAFETY AND SECURITY (Oct. 8, 2018), <https://www.blog.google/technology/safety-security/project-strobe/>.

the allegedly deceptive statements and updated its disclosures – consumers may now be better aware of the privacy trade-offs, and continue to use the service. For these consumers, granting access for the collection of purchase data may be a choice worth making. Google’s new privacy restrictions threaten to take that option away from consumers. That may be good for privacy, but not for consumer choice.

While Google will retain control of and access to the valuable purchase and other information about consumers contained in their Gmail accounts, other market actors – like Unroll.me and its parent, Rakuten Intelligence, a market research firm – may no longer have access. Google’s restrictions thus potentially “imperil the business models of some popular email extensions,”² like Unroll.me. That may be good for privacy, but not for competition.

I am not suggesting that Google sought to limit consumer choice or competition, or that it is violating the law. Consumers are focusing increasingly on privacy, and firms like Google may be responding to that demand. But this situation highlights an important aspect of the privacy debate, *i.e.*, the impact that privacy-enhancing decisions may have on consumer choice and competition.

There is no right answer, and we as a society may very well choose limitations on consumer choice and competition to protect privacy. Privacy is important. Consumers and policymakers alike must recognize, however, that it comes with tradeoffs. And competition enforcers must be vigilant, recognizing the potential of privacy efforts negatively to impact competition.

² Cat Zakrzewski, A small privacy change for Google leads to big disruptions for start-ups, WASHINGTON POST (Oct. 15, 2018), <https://www.washingtonpost.com/technology/2018/10/15/small-privacy-change-google-leads-big-disruptions-startups/>.

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