



FEDERAL TRADE COMMISSION

[File No. 242 3030]

MindSift LLC; Analysis of Proposed Consent Order 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 of Proposed Consent Order 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 DATE OF 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. Please write “MindSift; File No. 242 3030” 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, please mail your comment to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave. NW, Mail Stop H-144 (Annex M), 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 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 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 DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Write “MindSift; File No. 242 3030” 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.

We encourage you to submit comments through the <https://www.regulations.gov> website. Postal mail addressed to the Commission will be subject to delay because of heightened security screening. If you prefer to file your comment on paper, write “MindSift; File No. 242 3030” on your comment and on the envelope, and send it via overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H-144 (Annex M), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include 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 your comment does not include 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 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 <https://www.regulations.gov> website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that 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 <https://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws 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 it receives on or before [INSERT DATE 30 DAYS AFTER DATE OF 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 MindSift LLC (“MindSift” or “Respondent”). The proposed consent order (“Proposed Order”) has been placed on the public record for 30 days for receipt of public comments from interested persons.

Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement, along with the comments received, and will decide whether it should make final the Proposed Order or withdraw from the agreement and take appropriate action.

Respondent is a New Hampshire limited liability company with its principal place of business in Nashua, New Hampshire. It provides marketing and data brokering services.

MindSift, in conjunction with CMG Media Corporation d/b/a Cox Media Group (“CMG”) and 1010 Digital Works LLC (“1010 Digital”), developed and operated a marketing service that purported to allow CMG’s customers to target ads to consumers within particular geographic service areas based on conversations consumers had near their smart devices.

The Commission’s proposed two-count complaint alleges that Respondent (I) misrepresented that its marketing service collected and used voice data, obtained consent from consumers for such collection and use, and offered precise geotargeting, and (II) provided the means and instrumentalities for CMG to deceive its customers into purchasing the marketing service.

Regarding Count I, the proposed complaint alleges MindSift represented that its marketing service collected and used voice data from smart devices for marketing purposes, obtained consent for the collection and use of voice data from consumers, and created lists of consumers in particular geographic areas. The proposed complaint alleges that these claims are false or misleading, in violation of section 5 of the FTC Act, because the marketing service did not collect or use voice data, did not obtain consent from consumers for the collection and use of their voice data, and did not create lists of consumers in particular geographic areas.

Regarding Count II, the proposed complaint alleges that by furnishing deceptive representations in marketing materials, sales pitches, and responses to questions from CMG's customers, MindSift provided the means and instrumentalities for CMG to deceive customers. Based on the foregoing, the complaint alleges that Respondent engaged in deceptive acts or practices in violation of section 5(a) of the FTC Act.

The Proposed Order contains injunctive relief designed to prevent Respondent MindSift from engaging in the same or similar acts or practices in the future. Provision I prohibits MindSift from making any misrepresentation about: (1) the qualities or features of its advertising or marketing services; (2) the collection and use of Voice Data; (3) consumers' consent to the collection, use, or disclosure of Voice Data; or (4) the geographic targeting capabilities of its advertising or marketing services. (Voice Data is defined in the Proposed Order.)

Provision II requires MindSift to pay to the Commission \$25,000 in monetary relief. Provision III describes the procedures and legal rights related to that payment. Provision IV requires MindSift to provide customer information to enable the Commission to efficiently administer redress to those affected by the deception. Provision V requires MindSift to obtain and submit acknowledgments of receipt of the Order.

Provisions VI-VIII are reporting and compliance provisions, which include recordkeeping requirements and provisions requiring Respondent to provide information or documents necessary for the Commission to monitor compliance. Provision IX states that the Proposed Order will remain in effect for 20 years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the Proposed Order, and it is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify the Proposed Order's terms in any way.

By direction of the Commission.

Joel Christie,

Acting Secretary.

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