UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Office of the Secretary

August 26, 2026

Mark Rotenberg
Merve Hickok
Christabel Randolph
Nasrin Lin
Taja Nadeau
Center for AI and Digital Policy
1100 13th Street, NW
Washington, DC 20005

Re: *In the Matter of MindSift LLC*, Matter No. 2423030;
In the Matter of 1010 Digital Works LLC, Matter No. 2423033

Dear Center for AI and Digital Policy:

Thank you for your comments regarding the Federal Trade Commission's ("FTC") proposed consent agreements in the above-titled proceedings against MindSift LLC ("MindSift") and 1010 Digital Works LLC ("1010 Digital").

The complaints in this matter allege that MindSift and 1010 Digital violated Section 5 of the FTC Act, 15 U.S.C. § 45 ("Section 5") by falsely claiming that their AI-powered "Active Listening" marketing service would allow small businesses to target ads to individuals within the businesses' geographic service areas based on conversations those individuals had near their smart devices. Specifically, the complaints allege that the Active Listening service did not actually collect or use voice data, accurately target individuals in particular geographies, or use AI to detect pertinent conversations.

Your comments contain recommendations to amend the proposed orders to: 1) prohibit monitoring and surveillance products and services; 2) broaden the definition of "Voice Data"; 3) require affirmative consent, data deletion, and prohibit data transfers; 4) require algorithmic disgorgement; and 5) require implementation of governance programs. Specifically, your comments raise issues not alleged in the complaints, namely, as described in your comments, MindSift's and 1010 Digital's "business practices of digital eavesdropping and interception of private communications of individuals." Your comments also reference Active Listening's "central function" as "collecting and exploiting consumers' biometric information…"

As the complaints note, the business practices at issue "were nothing more than consumer email list buying, an industry practice where data brokers sell lists of email addresses of individuals presumed to have particular interests or demographic characteristics." As alleged in the complaints, digital eavesdropping and interception of private communications of individuals did not in fact happen; neither MindSift nor 1010 Digital collected or exploited consumers' biometric information.

Your recommendations for amending the provisions in the proposed orders refer to other matters where the Commission has ordered prohibitions on surveillance-related conduct or required affirmative express consent, algorithmic disgorgement, and data deletion. *See, e.g.*, *United States v. Kurbo Inc.*, No. 22-cv-00946 (N.D. Cal. Mar. 3, 2022); *In the Matter of Support King, LLC*, Order, Docket No. C-4756, https://www.ftc.gov/system/files/documents/cases/1923003c4756spyfoneorder.pdf. Notably, in those matters, the respondents and defendants were alleged to have collected personal information in a surreptitious or illegal manner, in violation of Section 5. Here, that is not the case.

The Commission is committed to vigorously enforcing the proposed orders and ensuring that all companies that engage in deceptive and unfair practices be held fully accountable. The facts as alleged in the MindSift and 1010 Digital matters did not involve actual surveillance products or services. For that reason, the Commission does not agree with the assertion in your comments that the proposed orders "suggest[] that a commercial service for the unauthorized collection of consumers' private communications data would be permissible if advertised accurately." The relief in the orders is appropriately tailored to address the deceptive representations alleged.

As highlighted in your comments, the proposed orders require MindSift and 1010 Digital to refrain from misrepresenting their advertising or marketing services related to the use and collection of voice data and consumers' consent to the use and collection of voice data and geographic targeting features, each pay $25,000 in monetary relief, and abide by reporting, recordkeeping, and compliance monitoring requirements, including 20-year timeframes that are appropriate for the conduct alleged in these matters. The Commission does not believe additional provisions in the proposed consent order are warranted.

The Commission believes the proposed order offers substantial protections to consumers. The Commission has placed your comments on the public record, pursuant to rule 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 C.F.R. § 4.9(b)(6)(ii). The Commission has now determined that the public interest would best be served by issuing the Decision and Order in the above-titled proceeding in final form without any modifications. The final Decision and Order and other relevant materials are available from the Commission's website at http://www.ftc.gov. Thank you again for your comments.

By direction of the Commission.

April J. Tabor
Secretary