

Analysis of Proposed Consent Order to Aid Public Comment In the Matter of 1010 Digital Works LLC, File No. 242-3033

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from 1010 Digital Works LLC (“1010 Digital” or “Respondent”).

The proposed consent order (“Proposed Order”) has been placed on the public record for 30 days for receipt of public 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, 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 1010 Digital is a Wisconsin limited liability company with its principal place of business in Mequon, Wisconsin. Respondent 1010 Digital provides marketing and data brokering services.

1010 Digital, in conjunction with CMG Media Corporation d/b/a Cox Media Group (“CMG”) and MindSift LLC (“MindSift”), 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 that 1010 Digital 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, 1010 Digital 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 1010 Digital from engaging in the same or similar acts or practices in the future.

Provision I prohibits Respondent 1010 Digital from making any misrepresentation about: (1) the qualities or features of its advertising or marketing services; (2) the collection and use of

Voice Data; consumers' consent to the collection, use, or disclosure of Voice Data; or the geographic targeting capabilities of its advertising or marketing services. (Voice Data is defined in the Proposed Order.)

Provision II requires Respondent 1010 Digital 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 Respondent 1010 Digital to provide customer information to enable the Commission to efficiently administer redress to those affected by the deception.

Provision V requires Respondent 1010 Digital 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 1010 Digital 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.