



FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

For Release

FTC to Require Cox Media Group, Two Other Firms to Pay Nearly \$1 Million to Settle Charges They Deceived Customers About “Active Listening” AI-Powered Marketing Service

FTC alleged the companies falsely claimed service could target ads using conversations from consumers' smart devices and that consumers had opted in

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The Federal Trade Commission will require Cox Media Group (CMG) and two smaller marketing firms to pay a total of \$930,000 to settle allegations they deceived customers by falsely claiming to offer an AI-powered service that could target localized ads based on conversations captured from consumers' smart devices and that consumers had opted into such targeting.

In three separate complaints, the FTC alleged that Georgia-based media and marketing company CMG Media Corporation, which does business as [Cox Media Group](#), and two marketing firms it worked with, New Hampshire-based [MindSift LLC](#) and Wisconsin-based [1010 Digital Works LLC](#), deceived customers by claiming they used a special algorithm to listen in on and detect pertinent conversations from smart devices in order to target ads to consumers within a specific geographic region. Contrary to these companies' claims, however, the marketing service wasn't based on voice data and consumers hadn't opted into this service.

"Not only did the product these companies marketed not do what they claimed it did, but they also misled potential customers by claiming consumers had opted into this service when it's clear they did not," said Christopher Mufarrige, Director of the FTC's Bureau of Consumer Protection. "It is a basic rule of business that you need to be honest with your customers, and these companies failed to do that."

CMG, MindSift and 1010 Digital Works claimed their "Active Listening" branded marketing service listened in on consumers' conversations overheard by smart devices, in real time, to target advertising, according to the complaints. The three companies claimed the Active Listening service would allow small businesses to advertise to consumers in the small businesses' desired locations.

According to the complaints, this service did not, in fact, listen in on consumers' conversations or use voice data at all—nor did the service accurately place ads in customers' desired locations. Instead, the service the companies provided consisted of reselling—at a significant markup—email lists obtained from other data brokers.

The FTC also alleged that all three companies deceived potential customers by claiming that consumers had opted into the Active Listening service. The company, however, did not seek or obtain consumers' consent, according to the complaints. Instead, the companies claimed that consumers had "opted in" by agreeing to the terms of service that people have to accept when downloading and using apps. Clicking through mandatory terms of service does not constitute "opt-in consent" for such an invasive service or for use of consumers' voice data from inside their homes. If the Active Listening service had functioned as advertised, this collection and use of consumers' voice data without adequate consent would itself violate Section 5 of the FTC Act.

The FTC alleged that these practices violated the FTC Act. The FTC also charged MindSift and 1010 Digital Works with a second count of violating the FTC Act by providing CMG with the "means and instrumentalities" to deceive customers through marketing materials, sales pitches and responses to customer questions that misled small businesses about the capabilities of the Active Listening service.

Under the proposed orders settling the FTC's allegations, [CMG](#) must pay \$880,000 while both [MindSift](#) and [1010 Digital Works](#) will each pay \$25,000, which will be used to provide redress to CMG customers impacted by these practices. In addition, each defendant will be prohibited from making any misrepresentation about:

- the qualities or features of its advertising or marketing services;

- the collection and use of voice data and whether consumers have provided their consent to collect, use or disclose their voice data; and
- the geographic targeting capabilities of its advertising or marketing services.

The Commission voted 2-0 to issue the proposed administrative complaints and to accept the consent agreements with CMG, MindSift and 1010 Digital Works.

The FTC will publish a description of each consent agreement package in the Federal Register soon. The agreements will be subject to public comment for 30 days after publication in the Federal Register after which the Commission will decide whether to make the proposed consent orders final. Instructions for filing comments will appear in the published notice. Once processed, comments will be posted on Regulations.gov.

NOTE: The Commission issues an administrative complaint when it has “reason to believe” that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to \$53,088.

The lead staff on these matters include Michael Sherling and Andy Hasty with the FTC’s Bureau of Consumer Protection.

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