

ANALYSIS OF PROPOSED CONSENT ORDERS TO AID PUBLIC COMMENT
In the Matter of One Industries Corp., File No. 152 3201

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, a consent agreement applicable to One Industries Corp. (“One Industries”).

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 thirty (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 any changes to the agreement’s proposed order.

This matter concerns alleged false or misleading representations that One Industries made to consumers concerning its participation in the Safe Harbor privacy framework agreed upon by the U.S. and the European Union (“EU”) (“U.S.-EU Safe Harbor Framework” or “Safe Harbor Framework”). The Safe Harbor Framework allows U.S. companies to transfer data outside the EU consistent with EU law. To join the Safe Harbor Framework, a company must self-certify to the U.S. Department of Commerce (“Commerce”) that it complies with a set of principles and related requirements that have been developed by the European Commission as providing “adequate” privacy protection. These principles include notice, choice, onward transfer, security, data integrity, access, and enforcement. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the Safe Harbor Framework. The list of companies indicates whether their self-certification is “current” or “not current.” Companies are required to recertify every year in order to retain their status as “current” members of the Safe Harbor Framework.

One Industries sells of motocross-related gear, graphic kits, and clothing worldwide. According to the Commission’s complaint, since at least January 2015, One Industries Corp. set forth on its website, <http://oneindustries.com/privacy>, privacy policies and statements about its practices, including statements related to its participation in the U.S.-EU Safe Harbor Framework.

The Commission’s complaint alleges that One Industries Corp. falsely represented that it was a participant in the U.S.-EU Safe Harbor Framework when, in fact, One Industries Corp. was never a participant in the Safe Harbor Framework. Commerce has never included the company on its public website.

Part I of the proposed order prohibits One Industries Corp. from making misrepresentations about its membership in a privacy or security program sponsored by the government or any other self-regulatory or standard-setting organization, including, but not limited to, the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires One Industries Corp. to retain documents relating to its compliance with the Order for a five-year period.

the FTC of changes in corporate status. Part I mandates that One Industries Corp. submit an initial compliance report to the FTC, and make available to the public. Subsequent reports. Part VI is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an offer of legal advice.