

Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Medable, Inc.
File No. 1823192

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

The proposed consent order (“proposed 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 final the agreement’s proposed order.

This matter concerns alleged false or misleading representations that Medable made concerning its participation in the Privacy Shield framework agreed upon by the U.S. and the European Union (“EU”). The Privacy Shield framework allows for the lawful transfer of personal data from the EU to participating companies in the U.S. The framework consists of a set of principles and related requirements that have been deemed by the European Commission as providing “adequate” privacy protection. The principles include notice; choice; accountability for onward transfer; security; data integrity and purpose limitation; access; and recourse, enforcement, and liability. The related requirements include, for example, securing an independent recourse mechanism to handle any disputes about how the company handles information about EU citizens.

To participate in the framework, a company must comply with the Privacy Shield principles and self-certify that compliance to the U.S. Department of Commerce (“Commerce”). Commerce reviews companies’ self-certification applications and maintains a public website, <https://www.privacyshield.gov/list>, where it posts the names of companies who have completed the requirements for certification. Companies are required to recertify every year in order to continue benefitting from Privacy Shield.

Medable is a technology development company. It primarily provides services that help pharmaceutical and biotechnology researchers collect and process data about research participants. According to the Commission’s complaint, from approximately December 2017 until October 2018, Medable published on its website, <http://www.medable.com>, a privacy policy containing statements related to its participation in Privacy Shield.

The Commission’s proposed one-count complaint alleges that Respondent violated Section 5(a) of the Federal Trade Commission Act. Specifically, the proposed complaint alleges that Respondent engaged in a deceptive act or practice by falsely representing that it was a certified participant in the EU-U.S. Privacy Shield Framework.

