

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Rebecca Kelly Slaughter
 Alvaro M. Bedoya
 Melissa Holyoak
 Andrew Ferguson

DECISION AND ORDER

DOCKET NO. C-

DECISION

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondent named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondent a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondent with violations of the Federal Trade Commission Act.

Respondent and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”). The Consent Agreement includes: 1) statements by Respondent that it neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, it admits the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission’s Rules.

The Commission considered the matter and determined that it had reason to believe that Respondent has violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

Findings

1. The Respondent is Mobilewalla, Inc., a Delaware corporation with its principal office or place of business at 5170 Peachtree Road, Bldg 100, Suite 100, Chamblee, Georgia 30341.
2. The Commission has jurisdiction over the subject

centers, psychiatric and substance abuse hospitals, and specialty hospitals); (2) religious organizations; (3) correctional facilities; (4) labor union offices; (5) locations held out to the public as predominantly providing education or childcare services to minors; (6) locations held out to the public as predominantly providing services to LGBTQ+ individuals such as service organizations, bars and nightlife; (7) locations held out to the public as predominantly providing services based on racial or ethnic origin; or (8) locations held out to the public as predominantly providing temporary shelter or social services to homeless, survivors of domestic violence, refugees, or immigrants; (9) locations of public gatherings of individuals during political or social demonstrations, marches, and protests; or (10) military installations, offices, or buildings.

M. “**Sensitive Location Data**” means any consumer Location Data associated with a Sensitive Location.

N. “**Supplier**” means a third-party from whom Respondent acquires Location Data and does not include a third-party that provides solely Location Data collected outside the United States for Respondent’s use solely outside the United States.

Provisions

I. Prohibition Against Misrepresentations

IT IS ORDERED that Respondent, and Respondent’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, promotion, offering for sale, sale, or distribution any product or service, must not misrepresent in any manner, expressly or by implication:

A. The extent to which Respondent collects, uses, maintains, gain, which sc115.-1 -1 (r)3 (e)A]6,

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4. Documenting each step of this assessment, including the reasons Respondent selected the methods, sources, products, or services used in updating Respondent's list of Sensitive Locations.

F. Implement policies, procedures, and technical measures designed to prevent Respondent from using, selling, licensing, transferring, or otherwise sharing or disclosing Sensitive Location Data as provided in Provision III and monitor and test the effectiveness of these policies, procedures, and technical measures at least once every six months. Such testing must be designed to verify that Respondent is not using, selling, licensing, transferring, or otherwise sharing or disclosing Sensitive Location Data except as provided in Provision III above.

G. Initiate the process of deleting or rendering non-sensitive Sensitive Location Data associated with locations included in the list developed pursuant to Provision IV.D within 7 days of adding the location to the list of Sensitive Locations, except where retention is needed to fulfill an allowed purpose as provided in Provision III above; and

H. Evaluate and adjust the Sensitive Location Data Program in light of any changes to Respondent's operations or business arrangements, or any other circumstance that Respondent knows or has reason to know may have an impact on the Sensitive Location Data Program's effectiveness. At a minimum, Respondent must evaluate the Sensitive Location Data Program every twelve months and implement modifications based on the results.

V. Prohibition on the Sale, Licensing, or Disclosure of Private Residence Data

IT IS FURTHER ORDERED that Respondent and Respondent's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must not sell, license, or disclose Location Data that may determine the identity or the location of an individual's private residence (e.g., single family homes, apartments, condominiums, townhomes).

VI. Supplier Assessment Program

IT IS FURTHER ORDERED that that Respondent, within 90 days of the effective date of this Order, implement a program designed to ensure that consumers have provided () Dec 0 Tw 0.08 (

C. Create and maintain records of the Supplier's responses obtained by Respondent as provided in Provision VI.B above; and

D. Cease using, selling, licensing, transferring, or otherwise sharing or disclosing Location Data for which consumers have not provided consent, as provided in Provision VI.B above.

VII. Disclosures to Consumers

IT IS FURTHER ORDERED that:

A. Respondent and Respondent's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must provide a Clear and Conspicuous means for consumers to request the identity of any entity, business, or individual to whom Respondent has sold, transferred, licensed, or otherwise disclosed their Location Data during the one year period preceding the request.

B. Respondent may require consumers to provide Respondent with information reasonably necessary to complete such requests and to verify their identity, but must not use, provide access to, or disclose any information collected for such a request for any other purpose.

VIII. Withholding and Withdrawing Consent

IT IS FURTHER ORDERED that Respondent and Respondent's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must:

A. Provide a simple, easily-located means for consumers to withdraw any consent provided in accordance with Provision VI.B (including Affirmative Express Consent) provided to Respondent in connection with Location Data that is no more burdensome than the means by which the consumer provided consent. Such means may include a Clear and Conspicuous notice or link to an applicable website, operating system, device, or app permission or setting; and

B. Not unreasonably limit a consumer's ability to withhold or withdraw any consent provided in accordance with Provision VI.B (including Affirmative Express Consent) in connection with Location Data, such as by degrading the quality or functionality of a product or service as a penalty for withholding or withdrawing such consent, unless the collection and use of Location Data is technically necessary to provide the quality or functionality of the product or service without such degradation.

IX. Obligations When Consent is Withdrawn

IT IS FURTHER ORDERED that Respondent and Respondent's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, must:

- ii. if it is stored in Respondent’s backups or archives that are not readily accessible (“Archived Location Data”), provided that (a) Respondent does not use, provide access to, or disclose Archived Location Data, (b) Archived Location Data is deleted in accordance with the data retention limits in Provision XI, and (c) Respondent deletes Archived Location Data pursuant to Provision X if Respondent uses or provides access to Archived Location Data; or
- iii. if Respondent is required to retain such Location Data to the extent requested by a government agency in a formal preservation letter that identifies the data to be preserved, or required by compulsory process, or otherwise required by law, regulation, or court order, and Respondent does not use such retained Location Data for any other purpose.

B. Create and maintain a process by which Respondent’s Suppliers may provide Respondent with notice of consumers’ deletion requests.

XI. Data Retention Limits

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XIII. Mandated Privacy Program

XIV. Acknowledgments of the Order

IT IS FURTHER ORDERED that Respondent obtains acknowledgments of receipt of this Order:

A. Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 10 years after the issuance date of this Order, Respondent must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Report and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Respondent delivered a copy of this Order, Respondent must obtain, within thirty days after the effective date of this Order, a written acknowledgment of receipt of this Order from each individual or entity to which Respondent delivered a copy of this Order.

G. Records showing Respondent's implementation of policies, controls, and technical measures to prevent the collection, or use of Sensitive Location Data prohibited by Provision III; and

H. All records necessary to demonstrate full compliance with each Provision of this Order, including all submissions to the Commission.

XVII. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondent's compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.

B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with Respondent. Respondent must permit representatives of the Commission to interview anyone affiliated with Respondent who has agreed to such an interview. The interviewee may have counsel present.

C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondent or any individual or entity affiliated with Respondent, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XVIII. Order Effective Dates

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its

